



Utah Transit Authority

Board of Trustees

REGULAR MEETING AGENDA

669 West 200 South
Salt Lake City, UT 84101

Wednesday, September 8, 2021

9:00 AM

FrontLines Headquarters

UTA Board of Trustees will meet in person at UTA FrontLines Headquarters (FLHQ) 669 West 200 South, Salt Lake City, Utah.

- Members of the Board of Trustees and meeting presenters will participate in person, however trustees may join electronically as needed.
- Meeting proceedings may be viewed remotely by following the instructions and link on the UTA Board Meetings page - <https://www.rideuta.com/Board-of-Trustees/Meetings>.
- Public Comment may be given live during the meeting by attending in person at the meeting location.
- Public Comment may also be given through alternate means. See instructions below.
 - o Comment online at <https://www.rideuta.com/Board-of-Trustees>
 - o Comment via email at boardoftrustees@rideuta.com
 - o Comment by telephone at 801-743-3882 option 5 (801-RideUTA option 5) – specify that your comment is for the board meeting.
 - o Comments submitted before 2:00 p.m. on Tuesday, September 7th will be distributed to board members prior to the meeting.
- Special Accommodation: Information related to this meeting is available in alternate format upon request by contacting calldredge@rideuta.com or (801) 287-3536. Request for accommodations should be made at least two business days in advance of the scheduled meeting.

- | | |
|--|---------------------------|
| 1. Call to Order and Opening Remarks | Chair Carlton Christensen |
| 2. Pledge of Allegiance | Chair Carlton Christensen |
| 3. Safety First Minute | Sheldon Shaw |
| 4. Public Comment | Chair Carlton Christensen |
| 5. Consent | Chair Carlton Christensen |
| a. Approval of August 25, 2021 Board Meeting Minutes | |
| b. Complimentary Service Approval: Brigham City Peach Days | |

6. Reports

- a. Agency Report Mary DeLoretto
 - West Valley City Community Partnership
 - Adopt-a-Stop Program
 - September Mobile Pop-Up Vaccine Clinics
 - Extension of Free Fares for Vaccinations
 - Free Fare Days Update
- b. Financial Report - July 2021 Bill Greene
Brad Armstrong
Daniel Hofer

7. Resolutions

- a. R2021-09-01 - Resolution Authorizing the Financing of Transit Vehicles through Equipment Lease-Purchase Agreements, and Related Matters Emily Diaz

8. Contracts, Disbursements and Grants

- a. Contract: 3300 South Bus Stop Design (WSP USA, Inc.) David Hancock
Brandon Heath
- b. Change Order: Ogden/WSU Bus Rapid Transit Change Order #9 - Waterline Tie-In Installation (Stacy & Witbeck, Inc.) David Hancock
Andrea Pullos
- c. Disbursement: Approval of disbursement over \$200,000 (Bruce Jones Litigation Settlement) David Wilkins
- d. Pre-Procurements: Todd Mills
 - Lubricants and Fluids for Vehicle Maintenance
 - Electronic Rail Platform Sign Replacement
 - Holiday Employee Gift Cards

9. Service and Fare Approvals

- a. Fare Contract: Ski Bus Agreement (Alta Ski Lifts Company) Bill Greene
Kensy Kunkel
- b. Fare Contract: Ski Bus Agreement (Brighton Ski Resort) Bill Greene
Kensy Kunkel
- c. Fare Contract: Ski Bus Agreement (Snowbird Ski Resort, LLC) Bill Greene
Kensy Kunkel
- d. Fare Contract: Ski Bus Agreement (Solitude Mountain Resort) Bill Greene
Kensy Kunkel

10. Discussion Items

- a. 2021-2022 UTA Insurance Coverage Update and Renewals

Dave Pitcher

11. Other Business

Chair Carlton Christensen

- a. Next Meeting: Wednesday, September 22nd, 2021 at 9:00 a.m.

12. Adjourn

Chair Carlton Christensen



U T A

Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Jana Ostler, Board Manager
FROM: Jana Ostler, Board Manager

TITLE:

Approval of August 25, 2021 Board Meeting Minutes

AGENDA ITEM TYPE:

Minutes

RECOMMENDATION:

Approve the minutes of the August 25, 2021 Board of Trustees meeting

BACKGROUND:

A regular meeting of the UTA Board of Trustees was held in-person and broadcast live via the link and instructions on the UTA Board Meetings page on Wednesday, August 25, 2021 at 9:00 a.m. Minutes from the meeting document the actions of the Board and summarize the discussion that took place in the meeting. A full audio recording of the meeting is available on the [Utah Public Notice Website](https://www.utah.gov/pmn/sitemap/notice/697919.html) <<https://www.utah.gov/pmn/sitemap/notice/697919.html>> and video feed is available through the [UTA Board Meetings page](https://rideuta.com/Board-of-Trustees/Meetings) <<https://rideuta.com/Board-of-Trustees/Meetings>>.

ATTACHMENTS:

1. 2021-08-25_BOT_Minutes_unapproved



Utah Transit Authority

Board of Trustees

MEETING MINUTES - Draft

669 West 200 South
Salt Lake City, UT 84101

Wednesday, August 25, 2021

9:00 AM

FrontLines Headquarters

Present: Chair Carlton Christensen
Trustee Beth Holbrook
Trustee Jeff Acerson

Also attending were UTA staff and interested community members.

1. Call to Order and Opening Remarks

Chair Carlton Christensen welcomed attendees and called the meeting to order at 9:04 a.m.

2. Pledge of Allegiance

Attendees recited the Pledge of Allegiance.

3. Safety First Minute

Sheldon Shaw, UTA Safety & Security Director, provided a brief safety message.

4. Public Comment

In-person public comment was given by Rebecca Baker. Ms. Baker works at the Salt Lake County library located in Sandy and spoke about a lack of bus service to the facility. She advocated for transportation options to connect community members, particularly persons with disabilities, to the resources available at the library.

It was noted that online public comment received was distributed to the board for review in advance of the meeting and is included in Appendix A to these minutes.

5. Consent

a. Approval of August 11, 2021 Board Meeting Minutes

A motion to approve the consent agenda was made by Trustee Acerson and seconded by Trustee Holbrook. The motion carried unanimously.

6. Reports**a. Agency Report**

- **Delegated Authority for On-Call Infrastructure Maintenance Task Orders - Status Update**
- **Peach Days Complimentary Service Request**
- **Rock the Canyon Complimentary Service Request**
- **Free Fare Day Update**

Delegated Authority for On-Call Infrastructure Maintenance Task Orders - Status Update

Bill Greene, Acting Interim Executive Director, was joined by Mary DeLaMare Schaefer, UTA Regional General Manager - Timpanogos Business Unit; Andres Colman, UTA Regional General Manager - Mt. Ogden Business Unit; and David Hancock, UTA Acting Chief Service Development Officer.

Mr. Hancock provided an update on the task orders issued for the on-call maintenance contract with Stacy & Witbeck as proscribed in board resolution R2021-05-02 (previously approved).

Signed task orders are as follows:

- 3200 West Grade Crossing Replacement: Not-to-Exceed (NTE) \$350,000/Actual \$242,974
- Operator Relief Rooms: NTE \$434,000
- North & South Stadium Embedded Curve Replacement: NTE \$1,800,000 (though this item appeared in the meeting presentation as a task order in negotiation, Mr. Hancock indicated the task order has already been signed)

Task orders in negotiation are as follows:

- Mario Capecchi Embedded Curve Replacement: NTE \$900,000

Task orders in scope development are as follows:

- Gap Filler on FrontRunner Stations: NTE \$1,000,000
- Winchester Avenue Grade Crossing Replacement: NTE \$350,000
- 8120 South Grade Crossing Replacement: NTE \$250,000

Peach Days Complimentary Service Request

Mr. Colman summarized the request to provide complimentary supplementary service to Peach Days in Brigham City. The estimated cost for the service is \$3,600.

Rock the Canyon Complimentary Service Request

Ms. DeLaMare-Schaefer spoke about a request to provide complimentary service for the Rock the Canyon community event. The anticipated cost is less than \$1,000.

Discussion ensued. A question on anticipated event attendance was posed by the board and answered by Ms. DeLaMare-Schaefer.

Free Fare Day Update

Mr. Greene indicated this update would be deferred to a future meeting.

7. Resolutions

a. R2021-08-05 - Resolution Authorizing Execution of a Joint Venture Agreement with Clearfield Station Partners, LLC for the Clearfield Station Transit-Oriented Development

Paul Drake, UTA Director of Real Estate & Transit-Oriented Development (TOD), was joined by Jordan Swain, UTA TOD Project Manager; Bruce Bingham with Hamilton Partners; and Trevor Evans with Stack Development. Mr. Drake summarized the resolution, which authorizes execution of the joint venture agreement (JVA) with Clearfield Station Partners, LLC for the Clearfield Station TOD. The development companies comprising Clearfield Station Partners, LLC are Hamilton Partners and Stack Development.

Staff described the development of the project, duties of the parties, compensation terms, and termination provisions contemplated in the JVA. It was also noted the terms of the agreement underwent a third-party review.

The land is valued at \$7.31 per square foot in the JVA, which reflects the fair market value. UTA will convey the applicable real property by phase and receive equity in each development entity proportionate to the value of the contributed land. Such equity will determine UTA's ownership stake and the amount of revenue that is distributed to UTA through operating income or disposition of assets.

Discussion ensued. A question on the current development market was posed by the board and answered by UTA staff and development partners.

A motion was made by Trustee Holbrook, and seconded by Trustee Acerson, that this resolution be approved. The motion carried by the following vote:

Aye: Chair Christensen, Trustee Holbrook, and Trustee Acerson

8. Contracts, Disbursements, and Grants

a. Contract: On-Demand Technologies and Innovative Mobility Services (River North Transit LLC - Via)

Nichol Bourdeaux, UTA Chief Planning & Engagement Officer, was joined by Jaron Robertson, UTA Director of Innovative Mobility Solutions. Mr. Robertson asked the board to approve a contract with River North Transit LLC (Via) for on-demand technologies and innovative mobility services. The contract will allow UTA to

implement new and innovative pilots or services over the next five years on an as-needed basis. The estimated contract value is \$32,761,486.

Discussion ensued. Questions on the competitiveness of the bidding process and the vendor's perception of the Utah market were posed by the board and answered by staff.

A motion was made by Trustee Acerson, and seconded by Trustee Holbrook, that this contract be approved. The motion carried by a unanimous vote.

b. Contract: In-Vehicle Mobile Gateways, Annual Maintenance, and Parts (Sierra Wireless America, Inc.)

Alisha Garrett, UTA Chief Enterprise Strategy Officer, requested the board approve a contract with Sierra Wireless America, Inc. for in-vehicle mobile gateways, annual maintenance, and parts to allow UTA to connect to, communicate with, and monitor different devices on bus, TRAX, and paratransit vehicles. The base contract has a two-year term (plus an additional few months for the remainder of 2021) and three one-year options. The total contract value, including options, is \$1,300,000.

Discussion ensued. Questions on the benefits of the new transit management system, potential to provide real time travel-relevant data to customers, UTA text alerts, and future transferability of technology to other vendor systems were posed by the board and answered by staff.

A motion was made by Trustee Holbrook, and seconded by Trustee Acerson, that this contract be approved. The motion carried by a unanimous vote.

9. Discussion Items

a. Mixed Bus Fleet Composition Strategy

Eddy Cumins, UTA Chief Operating Officer, was joined by Mr. Colman, and Tigran Melikyan, UTA Business and Quality Analyst. Staff summarized efforts to determine the appropriate fleet composition by reviewing areas of analysis; scoring methods; operational, capital, and environmental factors; external factor weighting; and the overall scoring summary. They described next steps, which include factoring in board input, developing a recommendation and written report, building a financial plan, and presenting a final recommendation to UTA leadership.

Discussion ensued. Questions on the assessment of external factors, electric bus data sources, intended frequency of performing a fleet composition analysis, electric bus life cycle score, environmental factors sources, regional considerations, plans for using compressed natural gas vehicles, and potential for using hydrogen in a propulsion system were posed by the board and answered by staff. Chair Christensen recommended quantifying emergency management considerations (e.g., certain propulsion systems may be at a disadvantage in an emergency) and dovetailing the capital vehicle procurement strategy with the final fleet composition strategy. Trustee

Holbrook suggested establishing a communications strategy for framing conversations on fleet composition with stakeholders. Chair Christensen opined soliciting stakeholder feedback would be valuable in informing the strategy.

Chair Christensen called for a short break at 10:23 a.m.

The meeting resumed at 10:31 a.m.

Chair Christensen changed the order of the agenda by moving the conversation on debt refunding (item 9.c.) before the conversation on the five-year capital plan (item 9.b.).

c. Potential 2015A Senior and Subordinate Sales Tax Revenue Refunding Bond Opportunity in 2021

Brian Baker, Financial Advisor with Zions Capital Advisors, was joined by Bob Kinney with Wells Fargo. Mr. Baker and Mr. Kinney together described an opportunity for UTA to refund the remaining 4.0-5.0% bonds from the 2015A issue (those with principal payments of \$405.27 million starting in 2021 and going through 2037). They reviewed bond refunding and restructuring considerations, U.S. Treasury rate trends, projected advance refunding results, and advance refunding sensitivity, then outlined a timeline for events related to the refunding opportunity.

Discussion ensued. Questions on previous bond refundings, rate nuances, eligibility for a tax exempt refunding, and future rate projections were posed by the board and answered by staff. The board instructed staff to continue its work on the refunding opportunity.

b. Utah Transit Authority Draft Five-Year Capital Plan - 2022 through 2026

Mr. Greene was joined by Mr. Hancock and Daniel Hofer, UTA Manager - Capital Assets & Project Controls. Staff outlined budget connections to the UTA strategic framework, summarized the five-year capital plan goals, and spoke about efforts to improve project delivery. They reviewed the proposed 2022 major capital and asset management projects and the proposed five-year capital budget by year. Staff also listed projects for which UTA anticipates receipt of significant outside funding and reviewed the next steps in the capital budgeting process.

Discussion ensued. Questions on the process for validating unfunded projects, movement of projects between phases of the plan, inclusion of facilities upgrades, opportunities for capitalizing on efficiencies, and ability to be nimble regarding potential shifts in priorities on long-term projects were posed by the board and answered by staff. Chair Christensen recommended information on the projects in the five-year capital plan - both funded and unfunded - be made easily accessible to the public (e.g., on the agency's website).

10. Other Business

- a. Next Meeting: Wednesday, September 8th, 2021 at 9:00 a.m.

11. Adjourn

A motion was made by Trustee Holbrook, seconded by Trustee Acerson, to adjourn the meeting. The motion carried by a unanimous vote and the meeting was adjourned at 11:13 a.m.

Transcribed by Cathie Griffiths
Executive Assistant to the Board Chair
Utah Transit Authority

This document is not intended to serve as a full transcript as additional discussion may have taken place; please refer to the meeting materials, audio, or video located at <https://www.utah.gov/pmn/sitemap/notice/697919.html> for entire content.

This document along with the digital recording constitute the official minutes of this meeting.

Approved Date:

Carlton J. Christensen
Chair, Board of Trustees

Appendix A

**Online Public Comment
to the
Board of Trustees of the Utah Transit Authority (UTA)
Board Meeting
August 25, 2021**

Received on August 24, 2021 from George Chapman:

Board of Trustees comments

Again, I have not heard any publicity about the required EIS for the Mid-Valley BRT that was not to have an EIS since federal funds were not planned to be applied for. But federal funds are now part of the project. Please publicize the EIS that is now required for the Mid-Valley BRT.

Salt Lake City is implementing 45 degree parking on 900 South that creates barriers to efficient bus operation. What is UTA planning to do to compensate for the barriers to the route? Note that Ogden rerouted the bus from the similar 25th Street area downtown. If the bus is to be rerouted, the public and local community councils should be involved in the new route (especially if it is routed to 13th South). Or UTA should ensure that car parking is not impacting bus operations.

UTA should be complaining to Salt Lake City to remove the inappropriate sharrows in the southbound lane since it slows the 500 East bus (after removing bus stops to speed up the bus).

UTA still is not encouraging transit ridership by lowering the bus fare to \$1. UTA has the money and it should put it in now to stop people from continuing to move to cars.

How can I get a copy of the Future of Light Rail study draft?



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: William Greene, Chief Financial Officer
PRESENTER(S): Chair Carlton Christensen

TITLE:

Complimentary Service Approval: Brigham City Peach Days

AGENDA ITEM TYPE:

Service or Fare Approval

RECOMMENDATION:

Approve the complimentary service request for the Brigham City Peach Days and authorize execution of the Complimentary Service Agreement.

BACKGROUND:

UTA, Brigham City, and Box Elder County have been longstanding partners. Since 2006, these partners have worked together to support transportation initiatives for the Brigham City Peach Days Event. UTA will continue to support Peach Days in 2021 by providing two (2) traditional shuttle routes. The Shuttles will provide transportation from the USU Brigham City Campus to the East and West sides of the event, as well as transport runners to the start line of the 10k race. UTA will also enter buses into the parade and car show. 35,000 people are expected to attend this year's event. No fare revenue will be collected on these 2 shuttles.

DISCUSSION:

UTA recommends partnering with the Peach Day's event to provide complimentary service for the 2021 event as described above and authorizing execution of the Complimentary Service Agreement.

ALTERNATIVES:

Do not provide complimentary shuttle service and negotiate a separate contract.

FISCAL IMPACT:

The total value of service is estimated to be \$7,783 and is detailed below:

PEACH DAYS HOURS AND MILES ESTIMATED 2021

<u>HOURS</u>	<u>COST PER HOUR</u>	<u>TOTAL COST</u>
60	\$67.00	\$4,020
<u>MILES</u>	<u>COST PER MILE</u>	<u>TOTAL COST</u>
710	\$5.30	\$3,763
		<u>GRAND TOTAL</u>
		\$7,783

ATTACHMENTS:

Complimentary Bus Service Agreement

UTA COMPLIMENTARY BUS SERVICE AGREEMENT

Whereas Requesting Entity has requested that UTA provide complimentary bus service in support of its event described below; and

Whereas UTA is willing to provide the requested complimentary service as described below;

Whereas Requesting Entity is willing to accept responsibility for third party claims associated with UTA's participation in this event;

Now therefore, the Parties agree as follows:

Terms Defined:

Requesting Entity: Box Elder Chamber of Commerce

Description of Event: Peach Days

Description of Service Requested: UTA will provide two (2) traditional shuttle service buses to transport passengers to and from the Bonneville Car Show and the Peach Days Festival. An additional bus will be provided to transport runners participating in the Peach Days 10K race.

Agreement:

1. UTA agrees to provide the complimentary service as described under "Description of Service" above.
2. Requesting Entity agrees that UTA shall maintain complete control of its busses including routing and operation of busses as well as the right to deny passage to belligerent, unruly or intoxicated passengers.
3. The Parties understand that the transit services being used under this Agreement are public transit services. As such users must comply with all UTA rider rules and rules governing the use of public transit services.
4. Requesting Entity agrees to hold UTA harmless and indemnify UTA from all 3rd party claims arising from UTA's provision of the requested complimentary service unless the injury or damage underlying the claim was caused by UTA or its employees.

Agreed to this 11 day of September 2021.

Signatures found on the following page. Remainder of page left intentionally blank.

REQUESTING ENTITY

DocuSigned by:

Monica Holdaway

5B1880382F1A43F...

Name: Monica Holdaway

Title: Executive Director

Date: 8/17/2021

UTAH TRANSIT AUTHORITY

Name:

Title:

Date:

Name:

Title:

Date:

Approved as to Form:

DocuSigned by:

Mike Bell

70E33A415BA44F6...

Mike Bell

Utah Attorney General



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: Mary DeLoretto, Interim Executive Director
PRESENTER(S): Mary DeLoretto, Interim Executive Director

TITLE:

Agency Report

- West Valley City Community Partnership
- Adopt-a-Stop Program
- September Mobile Pop-Up Vaccine Clinics
- Extension of Free Fares for Vaccinations
- Free Fare Days Update

AGENDA ITEM TYPE:

Report

RECOMMENDATION:

Informational report for discussion

DISCUSSION:

Mary DeLoretto, Interim Executive Director will report on recent activities of the agency and other items of interest.

- West Valley City Community Partnership
- Adopt-a-Stop Program
- September Mobile Pop-Up Vaccine Clinics
- Extension of Free Fares for Vaccinations
- Free Fare Days Update



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Acting Executive Director
FROM: Bill Greene, Chief Financial Officer
PRESENTER(S): Bill Greene, Chief Financial Officer
Brad Armstrong, Senior Manager Budget & Financial Analysis
Dan Hofer, Capital Assets and Project Controls Manager

TITLE:

Financial Report - July 2021

AGENDA ITEM TYPE:

Report

RECOMMENDATION:

Informational report for discussion.

BACKGROUND:

The Board of Trustees Policy No. 2.1, Financial Management, directs the Chief Financial Officer to present monthly financial statements stating the Authority's financial position, revenues, and expense to the Board of Trustees as soon as practical with monthly and year-to-date budget versus actual report to be included in the monthly financial report. The July 2021 Monthly Financial Statements have been prepared in accordance with the Financial Management Policy and are being presented to the Board.

Also provided, are the monthly Board Dashboards for Operating and Capital which summarize key information from the July 2021 Monthly Financial Statements and depict capital delivery progress.

Beginning in June of 2021, UTA began reporting on Capital Program delivery progress. Included in the September 8 presentation will be an update on Capital Program delivery through the month of July and, per Board Request, staff will provide project updates on select projects. This month, staff will be providing the Board an update on two elements of the Rail Infrastructure Program - Rail Rehab and Replacement and Grade Crossing Replacements.

DISCUSSION:

At the September 8, 2021 meeting, the Senior Manager Budget and Financial Analysis will review the Board Dashboard key items, passenger revenues, sales tax collections and operating expense variances and receive questions from the Board of Trustees.

The Capital Assets and Project Controls Manager will be providing the Capital Program Delivery Update and address Board questions.

ALTERNATIVES:

n/a

FISCAL IMPACT:

n/a

ATTACHMENTS:

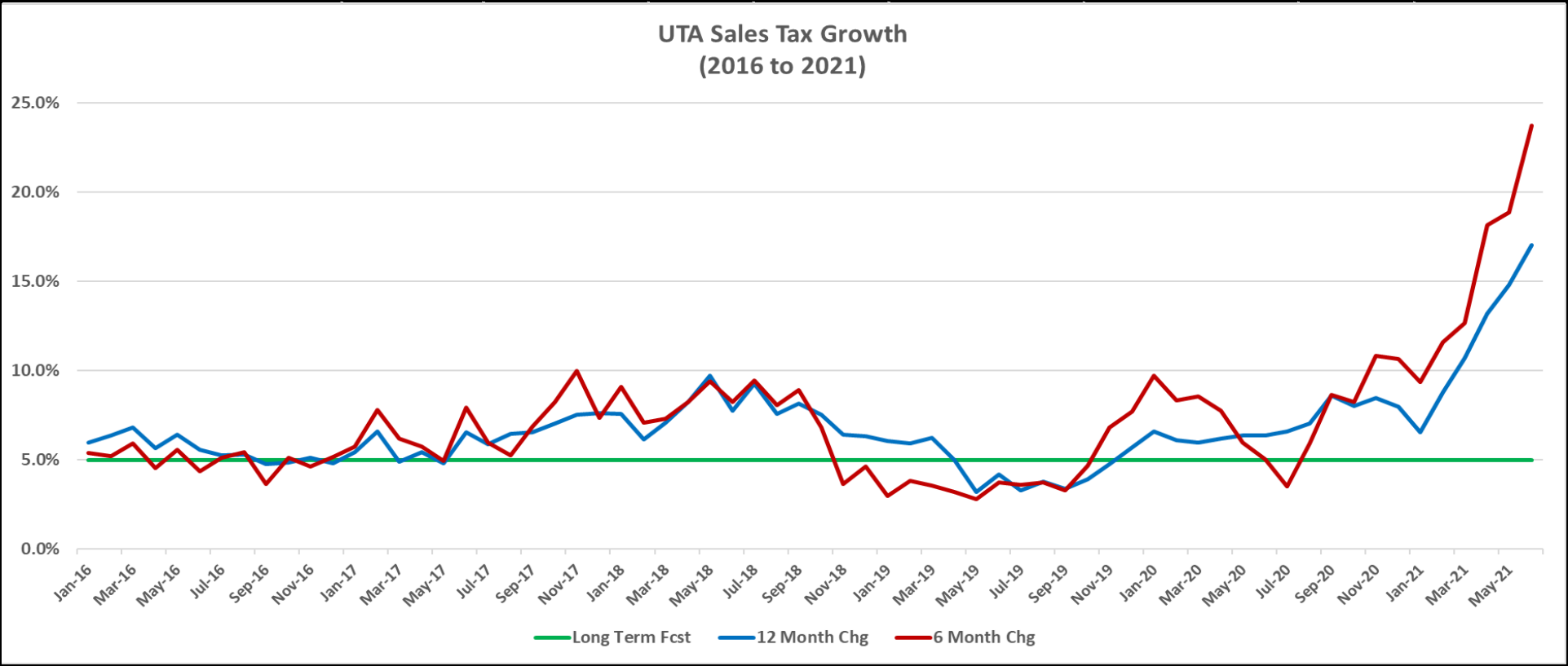
- July 2021 Board Dashboard
- July 2021 Monthly Financial Statements
- July 2021 Capital Program Delivery

UTA Board Dashboard

July 2021

UTAH TRANSIT AUTHORITY

Financial Metrics	July Actual	July Budget	Fav/ (Unfav)	%	YTD Actual	YTD Budget	Fav/ (Unfav)	%
Sales Tax (June '21 mm \$)	\$ 43.7	\$ 33.2	\$ 10.50	31.7%	\$ 207.4	\$ 171.1	\$ 36.25	21.2%
Fare Revenue (mm)	\$ 2.6	\$ 2.6	\$ 0.01	0.2%	\$ 16.9	\$ 18.0	\$ (1.13)	-6.3%
Operating Exp (mm)	\$ 24.9	\$ 26.5	1.61	6.1%	\$ 174.7	\$ 187.3	\$ 12.60	6.7%
Subsidy Per Rider (SPR)	\$ 11.63	\$ 15.06	\$ 3.43	22.8%	\$ 12.70	\$ 15.06	\$ 2.36	15.7%
UTA Diesel Price (\$/gal)	\$ 3.06	\$ 2.25	\$ (0.81)	-36.1%	\$ 2.38	\$ 2.25	\$ (0.13)	-5.6%
Operating Metrics	July Actual	Jul-20	F/ (UF)	%	YTD Actual	YTD 2020	F/ (UF)	%
Ridership (mm)	1.92	1.39	0.5	38.0%	12.43	15.41	(3.0)	-19.3%
Alternative Fuels	CNG Price (Diesel Gal Equiv)		\$ 3.06					

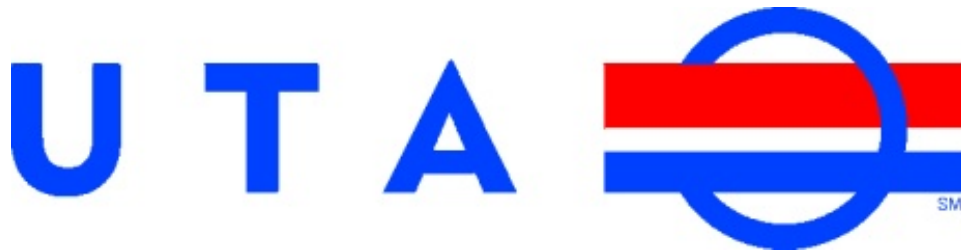


Utah Transit Authority

Financial Statement

(Unaudited)

July 31, 2021



KEY ITEM REPORT
(UNAUDITED)
As of July 31, 2021

EXHIBIT 1-1

	2021 YTD ACTUAL	2021 YTD BUDGET	VARIANCE FAVORABLE (UNFAVORABLE)	% FAVORABLE (UNFAVORABLE)
1 Operating Revenue	\$ (17,529,987)	\$ (18,766,000)	\$ (1,236,013)	-7%
2 Operating Expenses	174,698,344	187,295,780	12,597,436	7%
3 Net Operating Income (Loss)	(157,168,357)	(168,529,780)	11,361,423	7%
4 Capital Revenue	(36,367,532)	(20,236,513)	16,131,020	80%
5 Capital Expenses	53,926,230	26,722,342	(27,203,888)	-102%
6 Net Capital Income (Loss)	(17,558,698)	(6,485,829)	(11,072,868)	171%
7 Sales Tax	(228,315,251)	(202,561,120)	25,754,131	13%
8 Other Revenue	(161,662,430)	(100,045,750)	61,616,680	62%
9 Debt Service	52,231,468	52,506,427	274,959	1%
10 Sale of Assets	(5,808,785)	-	5,808,785	
11 Net Non-Operating Income (Loss)	343,554,998	250,100,443	93,454,555	37%
12 Contribution to Cash Balance	<u>\$ 168,827,943</u>	<u>\$ 75,084,834</u>	<u>\$ 93,743,110</u>	<u>125%</u>
13 Amortization	(114,806)			
14 Depreciation	91,390,692			
15 Total Non-cash Items	<u>\$ 91,275,886</u>			

STATISTICS

RIDERSHIP

2021 Actual	July 2021	July 2020	Difference	2021 YTD	2020 YTD	Difference
16 23,530,441	1,918,436	1,390,644	527,792	12,430,973	15,412,944	(2,981,971)

OPERATING SUBSIDY PER RIDER -

	SPR
17 Net Operating Expense	\$ 174,698,344
18 Less: Passenger Revenue	- (16,870,901)
19 Subtotal	157,827,443
20 Divided by: Ridership	÷ 12,430,973
21 Subsidy per Rider	<u>\$ 12.70</u>

SUMMARY FINANCIAL DATA
(UNAUDITED)
As of July 31, 2021

EXHIBIT 1-2

BALANCE SHEET

	7/31/2021	7/31/2020
CURRENT ASSETS		
1 Cash	\$ 25,271,358	\$ 11,540,170
2 Investments (Unrestricted)	290,175,002	137,313,463
3 Investments (Restricted)	112,741,631	164,062,075
4 Receivables	70,838,692	59,238,729
5 Receivables - Federal Grants	67,132,482	17,918,033
6 Inventories	34,808,938	36,417,027
7 Prepaid Expenses	304,221	102,666
8 TOTAL CURRENT ASSETS	\$ 601,272,324	\$ 426,592,163
9 Property, Plant & Equipment (Net)	2,891,360,212	2,893,160,321
10 Other Assets	145,516,965	152,135,525
11 TOTAL ASSETS	\$ 3,638,149,501	\$ 3,471,888,009
12 Current Liabilities	64,793,758	\$ 64,473,830
14 Net Pension Liability	96,783,597	103,864,839
15 Outstanding Debt	2,406,501,288	2,453,358,851
16 Net Investment in Capital Assets	689,361,441	
17 Restricted Net Position	26,258,032	
18 Unrestricted Net Position	354,451,385	850,190,489
19 TOTAL LIABILITIES & EQUITY	\$ 3,638,149,501	\$ 3,471,888,009

RESTRICTED AND DESIGNATED CASH AND CASH EQUIVALENTS RECONCILIATION

RESTRICTED RESERVES		
20 Debt Service Reserves	\$ 26,877	\$ 30,743,614
21 2010/2015 Bond DSR Proceeds	550,651	2,449,422
22 2018 Bond Proceeds	13,268,724	22,555,798
23 2019 Bond Proceeds	64,293,642	70,012,815
24 Debt Service Interest Payable	15,415,571	12,399,393
25 Risk Contingency Fund	8,036,979	8,000,202
26 Box Elder County ROW (sales tax)	4,422,985	6,845,322
27 Joint Insurance Trust	-	6,749,523
28 Davis County Escrow	522,916	1,148,440
29 SL County Escrow	8	207,633
30 Amounts held in escrow	6,203,278	2,949,913
31 TOTAL RESTRICTED RESERVES	\$ 112,741,631	\$ 164,062,075
DESIGNATED GENERAL AND CAPITAL RESERVES		
32 General Reserves	\$ 58,778,000	\$ 57,600,000
33 Service Sustainability Reserves	9,796,000	9,600,000
34 Capital Reserve	44,338,000	26,250,000
35 Debt Reduction Reserve	30,000,000	30,000,000
36 TOTAL DESIGNATED GENERAL AND CAPITAL RESERVES	\$ 142,912,000	\$ 123,450,000
37 TOTAL RESTRICTED AND DESIGNATED CASH AND EQUIVALENTS	\$ 255,653,631	\$ 287,512,075

SUMMARY FINANCIAL DATA
(UNAUDITED)
As of July 31, 2021

EXHIBIT 1-3

REVENUE & EXPENSES

	ACTUAL Jul-21	ACTUAL Jul-20	YTD 2021	YTD 2020
OPERATING REVENUE				
1 Passenger Revenue	\$ 2,613,806	\$ 2,254,877	\$ 16,870,901	\$ 21,456,260
2 Advertising Revenue	90,000	208,333	659,086	1,458,333
3 TOTAL OPERATING REVENUE	\$ 2,703,806	\$ 2,463,210	\$ 17,529,987	\$ 22,914,593
OPERATING EXPENSE				
4 Bus Service	\$ 8,565,674	\$ 8,134,287	\$ 61,757,215	\$ 60,349,876
5 Commuter Rail	1,717,666	1,560,770	12,663,644	12,592,044
6 Light Rail	3,149,882	3,325,831	22,376,129	21,048,548
7 Maintenance of Way	1,417,358	1,750,523	11,226,672	10,718,483
8 Paratransit Service	2,128,406	2,093,739	13,833,347	13,051,605
9 RideShare/Van Pool Services	294,118	126,553	1,897,125	1,435,042
10 Microtransit	45,902		808,978	
11 Operations Support	4,111,821	4,145,032	28,655,567	28,200,350
12 Administration	2,762,138	2,821,013	18,014,905	19,082,778
13 Planning/Capital Development/Real Estate	737,829	464,866	3,464,762	2,738,778
14 Non-Departmental	-	-	-	-
15 TOTAL OPERATING EXPENSE	\$ 24,930,794	\$ 24,422,614	\$ 174,698,344	\$ 169,217,504
16 NET OPERATING INCOME (LOSS)	\$ (22,226,988)	\$ (21,959,404)	\$ (157,168,357)	\$ (146,302,911)
NON-OPERATING EXPENSE (REVENUE)				
17 Investment Revenue	(122,711)	(262,555)	(745,443)	(2,501,433)
18 Sales Tax Revenue ¹	(35,440,122)	(38,702,579)	(228,315,251)	(179,322,276)
19 Other Revenue	(466,871)	(435,235)	(3,894,897)	(4,527,050)
20 Fed Operations/Preventative Maint. Revenue	(18,993,238)	(12,189,323)	(157,022,090)	(83,185,173)
21 Bond Interest	7,240,169	7,464,390	51,443,264	55,738,898
22 Bond Interest UTCT	162,591	166,164	1,137,084	
23 Bond Cost of Issuance/Fees	-	184,000	69,250	1,085,750
24 Lease Interest	99,260	755,445	718,954	5,185,755
25 Sale of Assets	(5,676,789)	2,322,504	(5,808,785)	2,243,908
26 TOTAL NON-OPERATING EXPENSE	\$ (53,197,711)	\$ (40,697,189)	\$ (342,417,914)	\$ (205,281,621)
27 CONTRIBUTION TO RESERVES	\$ 30,970,723	\$ 18,737,785	\$ 185,249,557	\$ 58,978,710
OTHER EXPENSES (NON-CASH)				
27 Bond Premium/Discount Amortization	(378,378)	(385,187)	(2,643,700)	(4,067,309)
28 Bond Refunding Cost Amortization	293,694	274,240	2,055,861	2,556,409
29 Future Revenue Cost Amortization	67,576	67,576	473,033	473,033
30 Depreciation	12,605,196	9,796,615	91,390,692	77,447,482
31 NET OTHER EXPENSES (NON-CASH)	\$ 12,588,088	\$ 9,753,244	\$ 91,275,886	\$ 76,409,615

¹ Current Year Sales Taxes YTD Include Actuals Plus Two Prior Month Accruals

BUDGET TO ACTUAL REPORT
(UNAUDITED)

EXHIBIT 1-4

As of July 31, 2021

CURRENT MONTH

	ACTUAL	BUDGET	VARIANCE	%
	Jul-21	Jul-21	FAVORABLE (UNFAVORABLE)	FAVORABLE (UNFAVORABLE)
OPERATING REVENUE				
1 Passenger Revenue	\$ (2,613,806)	\$ (2,608,000)	\$ 5,806	0%
2 Advertising Revenue	(90,000)	(110,000)	(20,000)	-18%
3 TOTAL OPERATING REVENUE	\$ (2,703,806)	\$ (2,718,000)	\$ (14,194)	1%
OPERATING EXPENSE				
4 Bus Service	\$ 8,565,674	\$ 8,964,055	\$ 398,381	4%
5 Commuter Rail	1,717,666	2,050,561	332,895	16%
6 Light Rail	3,149,882	3,389,207	239,325	7%
7 Maintenance of Way	1,417,358	1,650,759	233,401	14%
8 Paratransit Service	2,128,406	2,007,692	(120,714)	-6%
9 RideShare/Van Pool Services	294,118	303,721	9,603	3%
10 Microtransit	45,902	274,927	229,025	83%
11 Operations Support	4,111,821	4,420,704	308,883	7%
12 Administration	2,762,138	2,989,450	227,312	8%
13 Planning/Capital Development/Real Estate	737,829	487,014	(250,815)	-52%
14 Non-Departmental	-	-	-	
15 TOTAL OPERATING EXPENSE	\$ 24,930,794	\$ 26,538,090	\$ 1,607,296	6%
16 NET OPERATING INCOME (LOSS)	\$ (22,226,988)	\$ (23,820,090)	\$ 1,593,102	-7%
NON-OPERATING EXPENSE (REVENUE)				
17 Investment Revenue	\$ (122,711)	\$ (400,583)	\$ (277,872)	-69%
18 Sales Tax Revenue	(35,440,122)	(31,428,721)	4,011,401	13%
19 Other Revenue	(466,871)	(888,583)	(421,712)	-47%
20 Fed Operations/Preventative Maint. Revenue	(18,993,238)	(14,292,250)	4,700,988	33%
21 Bond Interest	7,240,169	7,000,203	(239,966)	-3%
22 Bond Interest UTCT	162,591	163,966	1,375	1%
23 Bond Cost of Issuance/Fees	-	2,100	2,100	100%
24 Lease Interest	99,260	117,832	18,572	16%
25 Sale of Assets	(5,676,789)	-	5,676,789	
26 TOTAL NON-OPERATING EXPENSE (REVENUE)	\$ (53,197,711)	\$ (39,726,036)	\$ 13,471,675	34%
27 CONTRIBUTION TO RESERVES	\$ 30,970,723	\$ 15,905,946		

BUDGET TO ACTUAL REPORT BY CHIEF
(UNAUDITED)

EXHIBIT 1-4A

As of July 31, 2021

CURRENT MONTH

	ACTUAL	BUDGET	VARIANCE	%
	Jul-21	Jul-21	FAVORABLE (UNFAVORABLE)	FAVORABLE (UNFAVORABLE)
OPERATING EXPENSE				
1 Board of Trustees	\$ 235,199	\$ 239,889	\$ 4,690	2%
2 Executive Director	720,054	657,579	(62,475)	-10%
3 Chief Planning and Engagement Officer	682,286	895,247	212,961	24%
4 Chief Finance Officer	1,043,126	1,058,845	15,719	1%
5 Chief Operating Officer	19,785,214	20,835,802	1,050,588	5%
6 Chief People Officer	574,040	670,973	96,933	14%
7 Chief Development Officer	493,232	603,886	110,654	18%
8 Chief Enterprise Strategy Officer	1,397,643	1,575,869	178,226	11%
9 Non-Departmental	-	-	-	
10 TOTAL OPERATING EXPENSE	<u>\$ 24,930,794</u>	<u>\$ 26,538,090</u>	<u>\$ 1,607,296</u>	6%

YEAR TO DATE

	ACTUAL	BUDGET	VARIANCE	%
	Jul-21	Jul-21	FAVORABLE (UNFAVORABLE)	FAVORABLE (UNFAVORABLE)
OPERATING EXPENSE				
1 Board of Trustees	\$ 1,466,781	\$ 1,601,325	\$ 134,544	8%
2 Executive Director	4,751,969	4,602,993	(148,976)	-3%
3 Chief Planning and Engagement Officer	4,280,892	5,905,680	1,624,788	28%
4 Chief Finance Officer	6,862,993	8,030,157	1,167,164	15%
5 Chief Operating Officer	141,336,821	146,163,413	4,826,592	3%
6 Chief People Officer	4,072,608	4,672,409	599,801	13%
7 Chief Development Officer	2,470,691	4,249,042	1,778,351	42%
8 Chief Enterprise Strategy Officer	9,455,589	11,523,928	2,068,339	18%
9 Non-Departmental	-	546,833	546,833	100%
10 TOTAL OPERATING EXPENSE	<u>\$174,698,344</u>	<u>\$ 187,295,780</u>	<u>\$ 12,597,436</u>	7%

BUDGET TO ACTUAL REPORT
(UNAUDITED)

EXHIBIT 1-5

As of July 31, 2021

YEAR TO DATE

	ACTUAL Jul-21	BUDGET Jul-21	VARIANCE FAVORABLE (UNFAVORABLE)	% FAVORABLE (UNFAVORABLE)
OPERATING REVENUE				
1 Passenger Revenue	\$ (16,870,901)	\$ (17,996,000)	\$ (1,125,099)	-6%
2 Advertising Revenue	(659,086)	(770,000)	(110,914)	-14%
3 TOTAL OPERATING REVENUE	\$ (17,529,987)	\$ (18,766,000)	\$ (1,236,013)	-7%
OPERATING EXPENSE				
4 Bus Service	\$ 61,757,215	\$ 63,321,647	\$ 1,564,432	2%
5 Commuter Rail	12,663,644	14,025,292	1,361,648	10%
6 Light Rail	22,376,129	23,680,415	1,304,286	6%
7 Maintenance of Way	11,226,672	11,395,359	168,687	1%
8 Paratransit Service	13,833,347	13,972,568	139,221	1%
9 RideShare/Van Pool Services	1,897,125	2,125,999	228,874	11%
10 Microtransit	808,978	1,704,891	895,913	53%
11 Operations Support	28,655,567	31,012,988	2,357,421	8%
12 Administration	18,014,905	22,143,365	4,128,460	19%
13 Planning/Capital Development/Real Estate	3,464,762	3,366,423	(98,339)	-3%
14 Non-Departmental	-	546,833	546,833	100%
15 TOTAL OPERATING EXPENSE	\$ 174,698,344	\$ 187,295,780	\$ 12,597,436	7%
16 NET OPERATING INCOME (LOSS)	\$ (157,168,357)	\$ (168,529,780)	\$ 11,361,423	7%
NON-OPERATING EXPENSE (REVENUE)				
17 Investment Revenue	\$ (745,443)	\$ (2,804,083)	\$ 2,058,640	-73%
18 Sales Tax Revenue	(228,315,251)	(202,561,120)	(25,754,131)	13%
19 Other Revenue	(3,894,897)	(6,220,083)	2,325,186	-37%
20 Fed Operations/Preventative Maint. Revenue	(157,022,090)	(100,045,750)	(56,976,340)	57%
21 Bond Interest	51,443,264	50,588,983	(854,281)	-2%
22 Bond Interest UTCT	1,137,084	1,147,762	10,678	1%
23 Bond Cost of Issuance/Fees	69,250	41,800	(27,450)	-66%
24 Lease Interest	718,954	727,882	8,928	1%
25 Sale of Assets	(5,808,785)	-	5,808,785	
26 TOTAL NON-OPERATING EXPENSE (REVENUE)	\$ (342,417,914)	\$ (259,124,610)	\$ 83,293,304	32%
27 CONTRIBUTION TO RESERVES	\$ 185,249,557	\$ 90,594,830		

CAPITAL PROJECTS
(UNAUDITED)
As of July 31, 2021

EXHIBIT 1-6

	2021 ACTUAL	ANNUAL BUDGET	PERCENT
EXPENSES			
1 REVENUE AND NON-REVENUE VEHICLES	\$ 3,366,363	\$ 47,286,015	7.1%
2 INFORMATION TECHNOLOGY	2,567,683	21,058,786	12.2%
3 FACILITIES, MAINTENANCE & ADMIN. EQUIP.	766,275	5,419,280	14.1%
4 CAPITAL PROJECTS	10,055,607	100,404,126	10.0%
5 AIRPORT STATION RELOCATION	3,125,323	9,453,807	33.1%
6 STATE OF GOOD REPAIR	10,549,409	37,374,436	28.2%
7 DEPOT DISTRICT	10,071,351	32,400,124	31.1%
8 OGDEN/WEBER STATE BRT	10,498,407	52,580,513	20.0%
9 TIGER	2,925,813	14,691,019	19.9%
10 TOTAL	<u>\$ 53,926,230</u>	<u>\$ 320,668,106</u>	16.8%
REVENUES			
11 GRANT	\$ 20,799,060	\$ 85,192,380	24.4%
12 STATE CONTRIBUTION	1,706,850	13,914,417	12.3%
13 LEASES (PAID TO DATE)	2,262,152	51,875,592	4.4%
14 BONDS	6,339,988	61,439,830	10.3%
15 LOCAL PARTNERS	5,259,482	30,415,935	17.3%
16 UTA FUNDING	17,558,698	77,829,952	22.6%
17 TOTAL	<u>\$ 53,926,230</u>	<u>\$ 320,668,106</u>	16.8%

FAREBOX RECOVERY & SPR
(UNAUDITED)
As of July 31, 2021

EXHIBIT 1-7

BY SERVICE

	CURRENT MONTH		YEAR TO DATE	
	Jul-21	Jul-20	2021	2020
UTA				
Fully Allocated Costs	24,930,794	24,422,614	174,698,344	169,217,504
Passenger Farebox Revenue	2,613,805	2,254,877	16,870,901	21,456,260
Passengers	1,918,436	1,390,644	12,430,973	15,412,944
Farebox Recovery Ratio	10.5%	9.2%	9.7%	12.7%
Actual Subsidy per Rider	\$11.63	\$15.94	\$12.70	\$9.59
BUS SERVICE				
Fully Allocated Costs	12,255,759	12,718,743	86,354,250	85,538,230
Passenger Farebox Revenue	1,162,781	980,076	8,172,408	9,767,917
Passengers	967,017	738,022	6,594,929	7,723,909
Farebox Recovery Ratio	9.5%	7.7%	9.5%	11.4%
Actual Subsidy per Rider	\$11.47	\$15.91	\$11.85	\$9.81
LIGHT RAIL SERVICE				
Fully Allocated Costs	6,679,450	7,078,531	47,928,010	45,278,549
Passenger Farebox Revenue	629,276	612,000	3,748,625	5,717,715
Passengers	682,340	489,386	4,230,779	5,501,788
Farebox Recovery Ratio	9.4%	8.6%	7.8%	12.6%
Actual Subsidy per Rider	\$8.87	\$13.21	\$10.44	\$7.19
COMMUTER RAIL SERVICE				
Fully Allocated Costs	3,114,600	1,960,096	21,641,150	21,012,744
Passenger Farebox Revenue	317,455	357,532	2,187,145	3,650,228
Passengers	173,613	92,844	985,164	1,432,998
Farebox Recovery Ratio	10.2%	18.2%	10.1%	17.4%
Actual Subsidy per Rider	\$16.11	\$17.26	\$19.75	\$12.12
PARATRANSIT				
Fully Allocated Costs	2,334,843	2,292,997	15,215,925	14,450,805
Passenger Farebox Revenue	267,526	34,249	909,769	213,232
Passengers	49,099	25,621	271,647	263,786
Farebox Recovery Ratio	11.5%	1.5%	6.0%	1.5%
Actual Subsidy per Rider	\$42.11	\$88.16	\$52.66	\$53.97
RIDESHARE				
Fully Allocated Costs	546,143	372,248	3,559,009	2,937,177
Passenger Farebox Revenue	236,766	271,019	1,852,953	2,107,168
Passengers	46,367	44,771	348,454	490,463
Farebox Recovery Ratio	43.4%	72.8%	52.1%	71.7%
Actual Subsidy per Rider	\$6.67	\$2.26	\$4.90	\$1.69

FAREBOX RECOVERY & SPR
(UNAUDITED)
As of July 31, 2021

EXHIBIT 1-8

BY TYPE

	CURRENT MONTH		YEAR TO DATE	
	Jul-21	Jul-20	2021	2020
FULLY ALLOCATED COSTS				
Bus Service	\$12,255,759	\$12,718,743	\$86,354,250	\$85,538,230
Light Rail Service	\$6,679,450	\$7,078,531	\$47,928,010	\$45,278,549
Commuter Rail Service	\$3,114,600	\$1,960,096	\$21,641,150	\$21,012,744
Paratransit	\$2,334,843	\$2,292,997	\$15,215,925	\$14,450,805
Rideshare	\$546,143	\$372,248	\$3,559,009	\$2,937,177
UTA	\$24,930,794	\$24,422,614	\$174,698,344	\$169,217,504
PASSENGER FAREBOX REVENUE				
Bus Service	\$1,162,781	\$980,076	\$8,172,408	\$9,767,917
Light Rail Service	\$629,276	\$612,000	\$3,748,625	\$5,717,715
Commuter Rail Service	\$317,455	\$357,532	\$2,187,145	\$3,650,228
Paratransit	\$267,526	\$34,249	\$909,769	\$213,232
Rideshare	\$236,766	\$271,019	\$1,852,953	\$2,107,168
UTA	\$2,613,805	\$2,254,877	\$16,870,901	\$21,456,260
PASSENGERS				
Bus Service	967,017	738,022	6,594,929	7,723,909
Light Rail Service	682,340	489,386	4,230,779	5,501,788
Commuter Rail Service	173,613	92,844	985,164	1,432,998
Paratransit	49,099	25,621	271,647	263,786
Rideshare	46,367	44,771	348,454	490,463
UTA	1,918,436	1,390,644	12,430,973	15,412,944
FAREBOX RECOVERY RATIO				
Bus Service	9.5%	7.7%	9.5%	11.4%
Light Rail Service	9.4%	8.6%	7.8%	12.6%
Commuter Rail Service	10.2%	18.2%	10.1%	17.4%
Paratransit	11.5%	1.5%	6.0%	1.5%
Rideshare	43.4%	72.8%	52.1%	71.7%
UTA	10.5%	9.2%	9.7%	12.7%
ACTUAL SUBSIDY PER RIDER				
Bus Service	\$11.47	\$15.91	\$11.85	\$9.81
Light Rail Service	\$8.87	\$13.21	\$10.44	\$7.19
Commuter Rail Service	\$16.11	\$17.26	\$19.75	\$12.12
Paratransit	\$42.11	\$88.16	\$52.66	\$53.97
Rideshare	\$6.67	\$2.26	\$4.90	\$1.69
UTA	\$11.63	\$15.94	\$12.70	\$9.59

SUMMARY OF ACCOUNTS RECEIVABLE
(UNAUDITED)

EXHIBIT 1-9

As of July 31, 2021

Classification	Total	Current	31-60 Days	61-90 Days	90-120 Days	Over 120 Days
1 Federal Grants Government ¹	\$ 67,132,482	\$ 67,132,482	-	-	-	-
2 Sales Tax Contributions	64,587,973	32,108,916	\$ 32,479,057	-	-	-
3 Warranty Recovery	1,965,533	2,232,847	-	-	-	-
4 Build America Bond Subsidies	1,481,500	740,750	740,750	-	-	-
5 Product Sales and Development	1,597,162	1,648,905	2,550	\$ 3,084	\$ (345)	\$ (57,032)
6 Pass Sales	56,397	113,918	(118,063)	9,945	(6)	50,603
7 Property Management	15,739	6,604	7,266	-	-	1,869
8 Vanpool/Rideshare	184,081	37,346	21,186	284	8,585	116,680
9 Salt Lake City Agreement	364,356	364,356	-	-	-	-
10 Planning	6,674	-	-	-	-	6,674
11 Capital Development Agreements	-	-	-	-	-	-
12 Other	579,277	311,963	-	-	-	-
13 Total	<u>\$ 137,971,174</u>	<u>\$104,698,087</u>	<u>\$ 33,132,746</u>	<u>\$ 13,313</u>	<u>\$ 8,234</u>	<u>\$ 118,794</u>

Percentage Due by Aging

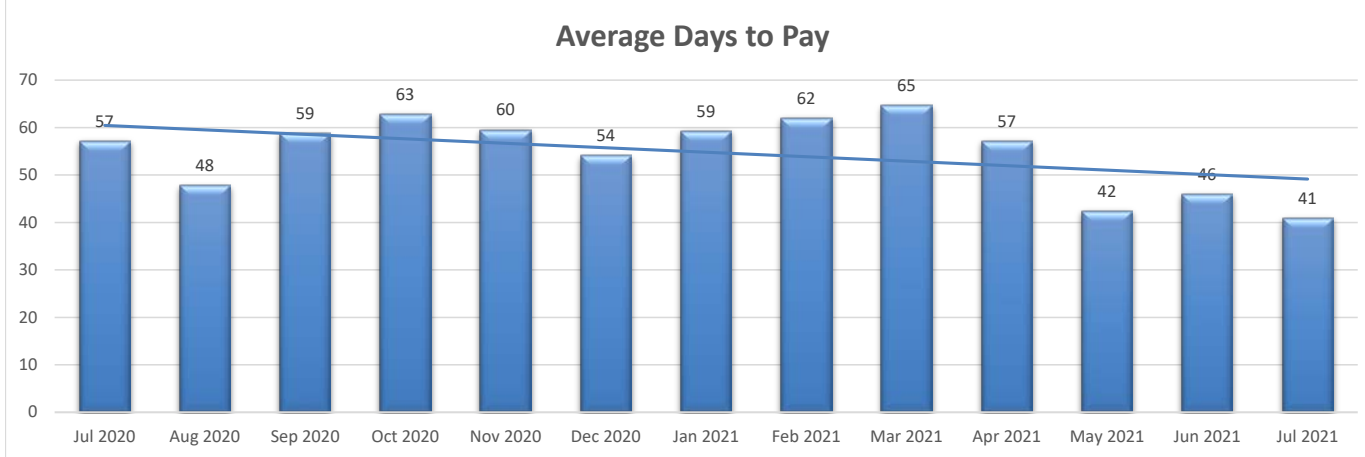
14 Federal Grants Government ¹	100.0%	0.0%	0.0%	0.0%	0.0%
15 Sales Tax Contributions	49.7%	50.3%	0.0%	0.0%	0.0%
16 Warranty Recovery	113.6%	0.0%	0.0%	0.0%	0.0%
17 Build America Bond Subsidies	50.0%	50.0%	0.0%	0.0%	0.0%
18 Product Sales and Development	103.2%	0.2%	0.2%	0.0%	-3.6%
19 Pass Sales	202.0%	-209.3%	17.6%	0.0%	89.7%
20 Property Management	42.0%	46.2%	0.0%	0.0%	11.9%
21 Vanpool/Rideshare	20.3%	11.5%	0.2%	4.7%	63.4%
22 Salt Lake City Agreement	100.0%	0.0%	0.0%	0.0%	0.0%
23 Planning	0.0%	0.0%	0.0%	0.0%	100.0%
24 Capital Development Agreements					
25 Other					
26 Total	75.9%	24.0%	0.0%	0.0%	0.1%

¹ Federal preventive maintenance funds, federal RideShare funds, and federal CARES Act, CRRSA, ARPA funding

SUMMARY OF APPROVED DISBURSEMENTS OVER \$200,000
FROM JULY 1, 2021 THROUGH JULY 31, 2021
(UNAUDITED)

EXHIBIT 1-10

<u>Contract # and Description</u>	<u>Contract Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Date</u>	<u>Check Total</u>
R2021-04-01		UTAH STATE TAX WITHHOLDING	WITHDRAWAL	7/1/2021	258,788.91
R2021-04-01		UTAH STATE TAX WITHHOLDING	WITHDRAWAL	7/1/2021	258,788.91
R2021-04-01		CAMBRIDGE ASSOCIATES, LLC.	ZION-ACH	7/1/2021	842,968.19
R2021-04-01		CAMBRIDGE ASSOCIATES, LLC.	ZION-ACH	7/1/2021	842,968.19
17-2455JH	LOCOMOTIVE REMANUFACTURER	8/22/2018 MOTIVE POWER, INC	361131	7/14/2021	522,910.00
R2021-04-01		ROCKY MOUNTAIN POWER	361190	7/14/2021	248,617.76
14-17TH	POSITIVE TRAIN CONTROL	10/6/2014 ROCKY MOUNTAIN SYSTEMS SERVICE	887573	7/14/2021	307,566.36
R2021-04-01		UTAH STATE TAX WITHHOLDING	WITHDRAWAL	7/15/2021	269,163.74
R2021-04-01		CAMBRIDGE ASSOCIATES, LLC.	ZION-ACH	7/15/2021	872,632.99
21-0342PP	ENTERPRISE APPLICATION AGREEMENT	4/22/2021 SHI INTERNATIONAL CORP	887632	7/21/2021	221,661.05
18-2800	EAST VILLAGE 3 PARKING STRUCTURE	8/3/2020 WADSWORTH BROTHERS CONSTRUCTION	887633	7/21/2021	225,225.19
18-2705TP	AIRPORT STATION RELOCATION	5/4/2018 KIEWIT INFRASTRUCTURE WEST CO.	887634	7/21/2021	508,755.76
16-1846TP	ON-CALL MAINTENANCE	10/7/2016 STACY AND WITBECK, INC.	887635	7/21/2021	2,599,217.15
19-0317PP	TDX VERSION 3.0 UPGRADE	12/23/2019 MODERN COMMUNICATIONS SYSTEMS	361355	7/28/2021	310,105.85
UT13-064GL	PROJECT MGMT SERVICES	3/3/2014 WSP USA	887696	7/28/2021	292,539.65
20-03243PP	ADA PARATRANSIT AND ROUTE DEVIATION	6/1/2020 MV PUBLIC TRANSPORTATION	887697	7/28/2021	381,920.66
R2021-04-01		UTAH STATE TAX WITHHOLDING	WITHDRAWAL	7/29/2021	282,783.37
R2021-04-01		CAMBRIDGE ASSOCIATES, LLC.	ZION-ACH	7/29/2021	909,324.16
R2021-04-01		SELECT HEALTH	ZION-ACH	7/30/2021	785,605.30
R2021-04-01		PEHP	ZION-ACH	7/30/2021	269,740.84





Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: Bill Greene, Chief Finance Officer and Treasurer
PRESENTER(S): Emily Diaz, Financial Services Administrator

TITLE:

R2021-09-01 - Resolution Authorizing the Financing of Transit Vehicles through Equipment Lease-Purchase Agreements, and Related Matters

AGENDA ITEM TYPE:

Resolution

RECOMMENDATION:

Adopt Resolution R2021-09-01

BACKGROUND:

UTA's adopted 2021 budget included \$37,374,125 in lease financing to acquire buses, paratransit vehicles, and vans, including a carryover for the 2020 MCI buses. In its meeting of February 24, 2021, the Board of Trustees passed Resolution 2021-02-05 declaring UTA's intent to reimburse itself for certain capital expenditures up to \$50,000,000.

Due to economic upheavals caused by the COVID-19 pandemic, several manufacturers have been unable to maintain production levels. Vehicle deliveries have slowed across the industry causing the 2020 MCI UTA vehicle delivery dates to move from 2020 into 2021 and a delivery delay of the 2021 vehicles.

Vehicle/Equipment Replacement	Number	Amount
2020 MCI Buses (Carryover)	27	\$19,315,125
Buses	23	\$12,800,000
Paratransit	30	\$3,053,000
Vanpool vans	58	\$2,206,000
Totals	138	\$37,374,125

In order to provide the lease financing for the 2021 vehicles and equipment deliveries, UTA anticipates issuing an RFP for 14-year and 6-year lease financing in the 4th Quarter of 2021.

DISCUSSION:

The resolution grants the authority to the Executive Director, Treasurer, and the Comptroller of the Authority to take all necessary steps to execute the lease-purchase agreements.

ALTERNATIVES:

The Board of Trustees may decide to seek financing for the budgeted leasing amount or reject award for one or all the lease terms.

FISCAL IMPACT:

The lease amounts will result in a 2021 lease expense of approximately \$38,000,000. This expenditure is included in UTA's approved 5-Year Capital Plan.

ATTACHMENTS:

Resolution R2021-09-01

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE UTAH TRANSIT
AUTHORITY (THE “AUTHORITY”) AUTHORIZING THE FINANCING OF TRANSIT
VEHICLES THROUGH EQUIPMENT LEASE-PURCHASE AGREEMENTS; AND
RELATED MATTERS**

R2021-09-01

September 8, 2021

WHEREAS, the Utah Transit Authority (the “Authority”) is a large public transit district organized under the laws of the State of Utah and was created to transact and exercise all of the powers provided for in the Utah Limited Purpose Local Government Entities - Local Districts Act and the Utah Public Transit District Act; and

WHEREAS, the Board of Trustees (the “Board”) of the Authority has authority to enter into lease agreements to provide for the financing of certain equipment; and

WHEREAS, in order to finance the acquisition and installation of certain vehicles, equipment and other capital costs to be used by the Authority for the benefit of its public transit system (the “Project”), the Board finds and determines that it is necessary and in the best interests of the Authority to authorize the appropriate officials of the Authority to, from time to time, enter into one or more Equipment Lease-Purchase Agreements (each a “Lease-Purchase Agreement” and collectively, the “Lease Purchase Agreements”); and

WHEREAS, there has been presented to the Board at this meeting a form of the Lease-Purchase Agreements; and

WHEREAS, in order to allow the Authority flexibility in timing the execution of the Lease-Purchase Agreements and to minimize costs to the Authority, the Board desires to grant to the Treasurer, Comptroller, or Executive Director of the Authority (each a “Designated Officer”) the authority to, from time to time: (a) select the lessor for the Lease-Purchase Agreement; and (b) approve the principal amounts, interest rates, terms, description of equipment, and other pricing terms; and the Board desires to authorize any two of the Designated Officers to execute a finalized version of each Lease-Purchase Agreement; and

WHEREAS, the Board desires to authorize and approve the finalization and use of the Lease-Purchase Agreements, and to authorize and approve all actions to be taken by the Authority in connection with the execution of the above documents and the financing of the Project.

NOW, THEREFORE, it is hereby resolved by the Board of Trustees of the Utah Transit Authority, as follows:

1. Terms defined in the foregoing recitals shall have the same meaning when used in the body of this Resolution.
2. For the purpose of providing funds to be used for the financing of the Project, the Board hereby authorizes any two of the Designated Officers of the Authority to, from time to time, enter into Lease-Purchase Agreements all within the parameters set forth in Section 4 hereof. The execution of the Lease-Purchase Agreements shall be subject to the final advice of counsel for the Authority.
3. The form of Lease-Purchase Agreements substantially as presented to this meeting and attached hereto as Exhibit A is hereby authorized, approved and confirmed. All terms and provisions of each Lease-Purchase Agreement are hereby incorporated in this Resolution. The Designated Officers of the Authority are hereby authorized to approve the final terms for each Lease-Purchase Agreement and the Designated Officers may execute and deliver each Lease-Purchase Agreement in substantially the same form and with substantially the same content as the form of the Lease-Purchase Agreements presented at this meeting for and on behalf of the Authority with final terms as may be established for each Lease-Purchase Agreement within the parameters set forth herein and with such alterations, changes or additions as may be necessary or as may be authorized by Section 5 hereof. The Designated Officers of the Authority are hereby authorized to specify and agree as to the final principal amounts, interest rates, terms, description of equipment, and other pricing terms with respect to each Lease-Purchase Agreement for and on behalf of the Authority and any changes thereto from those terms which were before the Board at the time of adoption of this Resolution, provided such terms are within the parameters set by this Resolution, with such approval to be conclusively established by the execution of each Lease-Purchase Agreement by the Designated Officers.
4. In order to finance the Project, the Board hereby finds and determines that it is in the best interests of the Authority and residents within the Authority, for the Authority to, from time to time, enter into lease arrangements with substantially the same provisions of each Lease-Purchase Agreement, with an aggregate principal amount for the Lease Purchase Agreements of not more than \$45,000,000, to bear interest at an interest rate of not to exceed 2.5% per annum, to include a term not to exceed 14 years for each Lease Purchase Agreement, as shall be approved by the Designated Officers, all within the Parameters set forth herein. The Designated Officers may approve and execute Lease-Purchase Agreements, within the parameters described herein, from time to time, at any time during the two years following adoption of this Resolution.
5. The Designated Officers are authorized to make any alterations, changes or additions to the Lease-Purchase Agreements or any other document herein authorized and approved which may be necessary to correct errors or omissions therein, to complete the same, to remove ambiguities therefrom, to conform the same to other provisions of said instruments, to the provisions of this resolution or

any resolution adopted by the Board or the provisions of the laws of the State of Utah or the United States or to the agreement with the lessor.

6. Any of the Designated Officers are hereby authorized and directed to execute and deliver for and on behalf of the Board and the Authority any or all additional certificates, documents, and other papers and to perform all other acts they may deem necessary or appropriate in order to implement and carry out the matters authorized in this Resolution and the documents authorized and approved herein.
7. On February 24, 2021, the Treasurer signed on behalf of the Authority, an intention and reasonable expectation of the Authority to use proceeds of tax-exempt Lease-Purchase Agreements to reimburse itself for expenditures for costs of the Project. The Lease-Purchase Agreements are to be executed and the reimbursements made, by the later of 18-months after the payment of the costs or after the Project is placed in service, but in any event, no later than three years after the date the original expenditure was paid. The Board hereby ratifies this prior reimbursement intent.
8. The Designated Officers are hereby authorized to take all action necessary or reasonably required by the Lease-Purchase Agreements to carry out, give effect to and consummate the transactions as contemplated thereby and are authorized to take all action necessary in conformity with the Act.
9. As permitted by Section 17B-1-102(3) of the Utah Code, the Board hereby elects to not treat the Lease Purchase Agreements as a bond for purposes of Utah Code Title 11, Chapter 14, Local Government Bonding Act or Title 11, Chapter 27, Utah Refunding Bond Act.
10. If any provisions of this Resolution should be held invalid, the invalidity of such provisions shall not affect the validity of any of the other provisions of this Resolution.
11. All resolutions of the Board or parts thereof inconsistent herewith, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.
12. This Resolution shall become effective immediately upon its adoption.

Approved and adopted this 8th day of September 2021.

Carlton Christensen, Chair
Board of Trustees

ATTEST:

Secretary of the Authority

(Corporate Seal)

Approved As To Form:

DocuSigned by:
David Wilkins
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Legal Counsel

EXHIBIT A
(FORM OF EQUIPMENT LEASE-PURCHASE AGREEMENT)

EQUIPMENT LEASE-PURCHASE AGREEMENT

This Equipment Lease-Purchase Agreement dated as of _____, 2021, together with all amendments or supplements thereto (collectively, the “Lease”) by and between _____, a corporation organized under the laws of State of _____ (“Lessor”), and the Utah Transit Authority (the “Lessee”), a public transit district existing under the laws of the State of Utah:

NOW THEREFORE, for and in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

DEMISING CLAUSE; TITLE; SECURITY

Section 1.1 Agreement to Lease. Lessor hereby demises, leases, and lets to Lessee and Lessee rents, leases and hires from Lessor, the Equipment (defined below), to have and to hold for the Term (defined below) of this Lease.

Section 1.2 Title. During the Term of this Lease, title to the Equipment will be transferred to, vested and held in the name of, Lessee, subject to retransfer to Lessor as provided in Section 3.4 and further subject to Lessee’s right to exercise the Option provided in Article V hereof. Upon termination of this Lease pursuant to Sections 3.3(a) or 3.3(c), title to the Equipment will transfer automatically to Lessor without the need for any further action on the part of Lessee, who by this Lease appoints Lessor its irrevocable attorney in fact solely for the purpose of taking such action as is necessary to so transfer title to the Equipment to Lessor. Lessor at all times will have reasonable access to the Equipment during regular business hours for the purpose of inspection, alteration, and repair.

Section 1.3 Security. To secure the payment of all of Lessee’s obligations to Lessor under this Lease, Lessee grants to Lessor a security interest in (i) the Equipment and in all additions, attachments, accessions, and substitutions to or for the Equipment, (ii) any moneys and investments held from time to time in the Escrow Account and (iii) any and all proceeds of the foregoing. Lessee agrees to execute such additional documents, including financing statements, affidavits, notices, and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or advisable to establish and maintain its security interest in the Equipment. Under the laws of the State of Utah, such pledge and assignment and security interest is automatically perfected as provided in Section 11-14-501, Utah Code Annotated 1953, as amended, and is and shall have priority as against all parties having claims of any kind in tort, contract, or otherwise hereafter imposed on the Equipment.

This Lease does not create any pledge of or lien on the revenues of the Lessee, including without limitation, the revenues pledged to any of its bonds, notes or other indebtedness and nothing in this Lease shall be construed to limit the ability of the Lessee to issue bonds, notes or other indebtedness secured by its revenues or any of its assets other than a lien on the Equipment.

ARTICLE II

DEFINITIONS

In addition to the terms defined in Article I hereof, the terms defined in this Article II shall, for purposes of this Lease, have the meaning herein specified unless the context clearly otherwise requires:

“Acquisition Amount” means \$ _____. The Acquisition Amount represented by the Lessee to be sufficient, together with other funds (if any) that are legally available, for the purpose to acquire and install the Equipment.

“Code” means the Internal Revenue Code of 1986 as amended. Each reference to a section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder.

“Commencement Date” shall mean the date when Lessee’s obligation to make payments commences hereunder and shall be the date on which the Acquisition Amount is deposited with the Escrow Agent.

“Equipment” shall mean the property which Lessor is leasing to Lessee described generally in Appendix A attached hereto and as may be more fully described in each draw under the Escrow Agreement.

“Escrow Account” means the fund established and held by the Escrow Agent pursuant to the Escrow Agreement.

“Escrow Agent” means the Escrow Agent identified in the Escrow Agreement, and its successor and assigns.

“Escrow Agreement” means an Escrow and Account Control Agreement (2021 – ____ Year) in form and substance acceptable to and executed by Lessee, Lessor and the Escrow Agent, pursuant to which the Escrow Account is established and administered.

“Event of Taxability” has the meaning assigned in Section 6.1(h).

“Option Purchase Price” shall mean the amount which Lessee must pay Lessor to purchase the Equipment, as determined by Article V and attached Appendix B.

“Original Term” shall mean the period from the Commencement Date until the end of the fiscal year of Lessee in effect at the Commencement Date, as set forth in Section 3.2.

“Renewal Terms” shall mean all of the additional periods of one year (coextensive with Lessee’s fiscal year) for which this Lease shall be effective in the absence of a termination of the Lease as provided in Article III.

“Rental Payments” means the rental payments payable by Lessee pursuant to the provisions of this Lease during the Term hereof.

“Taxable Rate” means _____%.

“Tax Certificate” means the Tax Certificate to be executed by the Lessee in connection with this Lease, and attached thereto as Appendix E.

“Tax-Exempt Rental Payments” means Rental Payments related to this Lease, the interest portion of which is excludable from gross income for federal income tax purposes.

“Term” or “Term of this Lease” shall mean the Original Term and all Renewal Terms provided for in this Lease under Section 3.2.

“Vendor” shall mean the manufacturer of the Equipment and the manufacturer’s agent or dealer from whom Lessee purchased the Equipment.

ARTICLE III

LEASE TERM

Section 3.1 Commencement. The Term of this Lease shall commence as of the Commencement Date.

Section 3.2 Duration of Lease; Nonappropriation; Nonsubstitution. The Term of this Lease will continue until midnight on the last day of the fiscal year of Lessee in effect at the Commencement Date (the “Original Term”). Thereafter, this Lease will be automatically extended for successive additional periods of one year coextensive with Lessee’s fiscal year as set forth in Appendix B (the “Renewal Terms”), unless this Lease is terminated as hereinafter provided.

The parties understand that as long as Lessee has sufficient appropriated funds to make the Rental Payments hereunder, Lessee will keep this Lease in effect through all Renewal Terms and make all payments required herein or Lessee will exercise its option under Article V to purchase the Equipment. Lessee hereby declares that, as of the date of the execution of this Lease, Lessee currently has an essential need for the Leased Equipment which is the subject of this Lease to carry out and give effect to the public purposes of Lessee. Lessee reasonably believes that it will have a need for the Equipment for the duration of the Original Term and all Renewal Terms. If Lessee does not appropriate funds to continue the leasing of the Equipment (an “Event of Nonappropriation”) for any ensuing Renewal Term, this Lease will terminate upon the expiration of the Original or Renewal Term then in effect and Lessee shall notify Lessor of such termination at least ten (10) days prior to the expiration of the Original or Renewal Term then in effect; provided, however, that a failure to give such written notice shall not constitute an event of default, result in any liability on the part of the Lessee or otherwise affect the termination of this Lease as set forth hereinabove.

If this Lease is terminated by Lessee due to an Event of Nonappropriation, the Lessee agrees not to purchase, lease or rent personal property to perform the same function or functions as those performed by the Equipment for a period of one hundred eighty (180) days succeeding such termination; provided, however, that these restrictions shall not be

applicable if illegal or unenforceable under Utah law (as to which no opinion is expressed by Lessee or Lessee's counsel).

Section 3.3 Termination. This Lease will terminate upon the earliest to occur of any of the following events:

- (a) the expiration of the Original Term or any Renewal Term of this Lease wherein an Event of Nonappropriation has occurred resulting in a lack of funds to continue the leasing of the Equipment for the ensuing Renewal Term;
- (b) the exercise by Lessee of any option to purchase granted in this Lease by which Lessee purchases all of the Equipment;
- (c) a default by Lessee and Lessor's election to terminate this Lease under Article VII herein; or
- (d) upon the payment of all rental payments and all other amounts due hereunder.

Section 3.4 Return of Equipment Upon Termination. Upon termination of this Lease pursuant to Section 3.3(a) or (c), Lessee shall return the Equipment, freight and insurance prepaid, at Lessee's expense to a location designated by the Lessor in the condition, repair, appearance and working order required in Section 9.2 hereof. In the event that Lessee refuses to return the Equipment in the manner designated, Lessor may repossess the Equipment and charge to Lessee the costs of such repossession and the Rental Payments through the earlier of (i) actual repossession by Lessors or (ii) 30 days from the date of termination of this Lease. Lessee's obligations under the provisions of this Section are subject to and payable solely from funds appropriated for such purpose.

Section 3.5 Delivery and Installation. Delivery and Installation specifics for the Equipment shall be performed in a reasonable and customary manner.

Section 3.6 Draw Down of Funds into Escrow Account. Upon closing of this Lease, the Lessor shall deposit \$_____ into the Escrow Account.

Section 3.7 Acceptance Certificate. Upon delivery of all of the Equipment for use by the Lessee, the Lessee shall deliver the Acceptance Certificate in substantially the form of Appendix D hereto.

ARTICLE IV

RENTAL PAYMENTS

Section 4.1 Amount. Lessee will pay Lessor as rent for the use of the Equipment during the Original Term and any Renewal Terms the Rental Payments on the dates and in the amounts set forth in Appendix B. All Rental Payments shall be paid, exclusively from legally available funds, in lawful money of the United States of America to Lessor at Lessor's address set forth in Section 11.4 or to such other person or entity or at such other

place as Lessor may from time to time designate by at least thirty (30) days advance written notice to Lessee.

Section 4.2 Portion of Rental Payments Attributable to Interest. The portion of each Rental Payment which is paid as and is representative of interest is set forth in Appendix B.

Section 4.3 No Right to Withhold. Notwithstanding any dispute between Lessee, Lessor, or any other party, Lessee will make all Rental Payments when due, without withholding any portion of such rent, pending final resolution of such dispute by mutual agreement between the parties thereto or by a court of competent jurisdiction. The obligation of Lessee to pay Rental Payments hereunder during the Original Term and any Renewal Term is absolute and unconditional and shall not be abated for any reason, subject to the right of the Lessee to terminate this lease at the conclusion of the Original Term or any Renewal Term due to an Event of Nonappropriation.

Section 4.4 Rental Payments to Constitute a Current Obligation of the Lessee. The Lessee and the Lessor acknowledge and agree that the obligation of the Lessee to pay Rental Payments hereunder constitutes a current obligation of the Lessee payable exclusively from current and legally available funds and shall not in any way be construed to be an indebtedness of the Lessee within the meaning of any provision of the laws of the State of Utah or any section of the Utah Constitution, or any other constitutional or statutory limitation or requirement applicable to the Lessee concerning the creation of indebtedness. The Lessee has not hereby pledged the general credit of the Lessee or any revenues or assets of Lessee to the payment of the Rental Payments, or the interest thereon, and this Lease shall not obligate the Lessee to apply any other money to the Rental Payments or any interest thereon.

ARTICLE V

PURCHASE OF EQUIPMENT

Section 5.1 Option Purchase Price. On and after _____, 2021, the Lessee shall have the option (the "Option") to purchase the Equipment from Lessor at a price equal to the Option Purchase Price (as set forth on Appendix B), plus accrued and unpaid interest (if any) and any rental payments due on the date of purchase.

Section 5.2 Manner of Exercise of Option. To exercise the Option, Lessee must deliver to Lessor written notice specifying the date on which the related Equipment is to be purchased, which notice must be delivered to Lessor at least thirty (30) days prior to the date of purchase specified therein. At the closing of the Option and upon payment of the Option Purchase Price, Lessor will deliver to Lessee all documents necessary to clear and release any related lien, encumbrance or security interest created by or arising through Lessor or this Lease

Section 5.3 Conditions of Exercise of Option. Lessee may purchase the Equipment pursuant to the Option only if Lessee is not in default in the payment of Rental Payments, in accordance with the provisions of this Lease (or has remedied any defaults).

Section 5.4 Termination Purchase. Upon the expiration of the Term of the Lease as stated in Section 3.3(d) and provided that the conditions of Section 5.3 have been satisfied, Lessee shall be deemed to have purchased all of the Equipment (without the payment of additional sums and without any notice required by Section 5.2) and shall be vested with all rights and title to all of the Equipment. Lessor agrees that upon the occurrence of the events as provided in this Section 5.4, it shall deliver to Lessee the documents specified in Section 5.2.

ARTICLE VI

REPRESENTATIONS, COVENANTS, AND WARRANTIES OF LESSEE AND LESSOR

Section 6.1 Representations, Covenants and Warranties of Lessee. Lessee represents, covenants, and warrants as follows:

(a) Lessee is a public transit district, duly organized and existing under the Constitution and laws of the State of Utah.

(b) Lessee is authorized by the Constitution and laws of the State of Utah to enter into this Lease and to effect all of Lessee's obligations hereunder. To the knowledge of the undersigned, there is no litigation or other proceeding challenging in any way Lessee's authority to execute this Lease and perform its obligations hereunder. To the knowledge of the undersigned, the execution and delivery of this Lease by Lessee and the performance of Lessee's obligations hereunder does not conflict with or constitute a breach of or default under, (with or without notice or lapse of time), any other instrument to which Lessee is a part.

(c) All procedures and requirements, including any public bidding requirements, required to be met by Lessee prior to the execution of this Lease in order to insure the enforceability of this Lease have been met and all Rental Payments and other payment obligations will be paid out of funds legally available for such purpose.

(d) The letter attached to this Lease as Appendix C is a true opinion of Lessee's counsel.

(e) Lessee will use and service the Equipment in accordance with Vendor's written instructions, if any, provided to Lessee.

(f) During the Term of this Lease, the Lessee shall comply with the Tax Certificate, if any, and the Equipment will be used by Lessee only for the purpose of performing one or more governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority.

(g) Equipment related to Tax-Exempt Rental Payments shall be used solely by Lessee (except as otherwise permitted by the Code) and shall not be subject to any direct or indirect private business use or to make any loans.

(h) Lessee agrees that it will not take any action that would cause the interest component of Tax-Exempt Rental Payments to be or to become ineligible for the exclusion from gross income of Lessor for federal income tax purposes, nor will it omit to take or cause to be taken, in a timely manner, any action, which omission would cause the interest component of Tax-Exempt Rental Payments to be or to become ineligible for the exclusion from gross income of Lessor for federal income tax purposes. Upon the occurrence of an Event of Taxability with respect to this Lease, the interest component of Rental Payments under such Lease and any charge on Rental Payments or other amounts payable based on the interest rate described herein shall have accrued and be payable at the Taxable Rate retroactive to the date as of which the interest component is determined by the Internal Revenue Service to be includible in the gross income of the owner or owners thereof for federal income tax purposes, and Lessee will pay such additional amount as will result in Lessor receiving the interest component at the Taxable Rate. For purposes of this Section, "Event of Taxability" means the circumstance of the interest component of any Rental Payment paid or payable pursuant to this Lease becoming includible for federal income tax purposes in Lessor's gross income as a consequence of any act, omission or event whatsoever, including but not limited to the matters described in the immediately succeeding sentence, and regardless of whether the same was within or beyond the control of Lessee. An Event of Taxability shall be presumed to have occurred upon (a) the receipt by Lessor or Lessee of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency or other written correspondence which legally holds that the interest component of any Rental Payment under this Lease is includable in the gross income of Lessor; (b) the issuance of any public or private ruling of the Internal Revenue Service that the interest component of any Rental Payment under this Lease is includable in the gross income of Lessor; or (c) receipt by Lessor or Lessee of a written opinion of a nationally recognized firm of attorneys experienced in matters pertaining to the tax exempt status of interest on obligations issued by states and their political subdivisions, selected by Lessor and acceptable to Lessee, to the effect that the interest component of any Rental Payment under this Lease has become includable in the gross income of Lessor for federal income tax purposes. For all purposes of this definition, an Event of Taxability shall be deemed to occur on the date as of which the interest component of any Rental Payment is deemed includable in the gross income of the owner thereof for federal income tax purposes.

(i) With relation to Tax-Exempt Rental Payments, this Lease constitutes neither (i) a private activity bond, as defined in Section 141 of the Internal Revenue Code of 1986, as amended (the "Code") nor (ii) an arbitrage bond, as defined in Section 148 of the Code.

(j) For Tax-Exempt Rental Payments, the obligations of Lessee under this Lease are not federally guaranteed within the meaning of Section 149(b) of the Code.

(k) With relation to Tax-Exempt Rental Payments, in compliance with Section 149(e) of the Code relating to information reporting, Lessee has caused or will cause to be filed with the Internal Revenue Service, IRS form 8038-G or 8038-GC, as appropriate (form attached as Appendix F).

(l) The Lessee covenants and certifies to and for the benefit of the Lessor that no use will be made of any of the proceeds of the issuance and sale of the Lease or any funds or accounts of the Lessee which may be deemed to be available proceeds of the Lease, pursuant to Section 148 of the Code, and applicable Treasury Regulations (promulgated or proposed) thereunder, which use, if it had been reasonably expected on the date of issuance of the Lease, would have caused the Lease to be classified as an “arbitrage bond” within the meaning of Section 148 of the Code. Pursuant to this covenant, the Lessee obligates itself to comply throughout the term of the Lease with the requirements of Section 148 of the Code and the Treasury Regulations proposed or promulgated thereunder as the same presently exist, or may from time to time hereafter be amended, supplemented or revised. The Lessee further represents and covenants that, with the exception of two leases similar to this Lease entered into by Lessee and Lessor simultaneous with the execution of this Lease, no federal tax exempt bonds or other federal tax exempt evidences of indebtedness of the Lessee have been or will be issued, sold or delivered pursuant to a common plan of finance with this Lease within a period beginning 15 days prior to the pricing of the Lease and ending 15 days following the delivery of the Lease. Additional representations and covenants of the Lessee with respect to matters governed by the Code and Treasury Regulations relating to the Tax-Exempt Rental Payments, including without limitation Treasury Regulations Sections 1.148-1 through 1.148-11, Section 1.149 and Sections 1.150-1 and 1.150-2, will be set forth in the Tax Certificate attached hereto.

(m) With relation to Tax-Exempt Rental Payments, no portion of the proceeds of this Lease will be used to refund any other obligation.

(n) With relation to Tax-Exempt Rental Payments, except for capital expenditures (i) contemplated by the Declaration of Official Intent attached hereto as Appendix G and (ii) paid after the date of the Declaration of Official Intent (or within 60 days prior to the date thereof), no proceeds of this Lease will be used to reimburse amounts expended prior to the closing date described herein.

(o) During the term of this Lease, Lessee covenants and agrees (1) to include in its annual tentative budget prepared by the appropriate officials acting on behalf of Lessee in accordance with applicable law an item for expenditure of an amount necessary to pay the Rental Payments for the Equipment during the next succeeding Renewal Term, and (2) to take such further action (or cause the same to be taken) as may be necessary or desirable to assure that the final budget submitted

to the governing body of Lessee for its consideration seeks an appropriation of moneys sufficient to pay such Rental Payments.

(p) Lessee has never non-appropriated or defaulted under any of its payment or performance covenants, either under any municipal lease of the same general nature as this Lease or under any of its bonds, notes or other debt obligations.

(q) The Lessee shall have available for the Lessor's inspection a copy of its audited financial statements within two hundred (200) days of its fiscal year end, unless due to circumstances reasonably outside of its control said statements cannot be completed within two hundred (200) days. In such event, unless reasonably agreed to otherwise by Lessor, audited financial statements shall be made available within two-hundred-twenty (220) days of its fiscal year end.

(r) Lessee has not directly or indirectly caused to be created any lien or encumbrance on the Equipment except the security interest granted in Section 1.3 of this Lease.

Section 6.2 Representations, Covenants and Warranties of Lessor. Lessor represents, covenants, and warrants as follows:

(i) During the Term of this Lease, Lessor will provide Lessee with quiet use and enjoyment of the Equipment, without suit, trouble, or hindrance from Lessor or through Lessor, except upon the occurrence of the events described in Section 3.3 (a) and (c) of this Lease.

(ii) Lessee has ordered the Equipment and Lessor shall lease the same to Lessee as herein provided, Lessor's role being the facilitation of the financing of the Equipment for the Lessee. FOR PURPOSE OF THIS LEASE AND OF ANY PURCHASE OF THE EQUIPMENT EFFECTED UNDER THIS LEASE, LESSOR EXPRESSLY DISCLAIMS ANY WARRANTY WITH RESPECT TO THE CONDITION, QUALITY, DURABILITY, SUITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE EQUIPMENT IN ANY RESPECT, AND ANY OTHER REPRESENTATION, WARRANTY, OR COVENANT, EXPRESS OR IMPLIED. LESSOR WILL NOT BE LIABLE TO LESSEE FOR ANY LIABILITY, LOSS, OR DAMAGE CAUSED OR ALLEGED TO BE CAUSED, DIRECTLY OR INDIRECTLY, BY ANY INADEQUACY, DEFICIENCY, OR DEFECT IN THE EQUIPMENT, OR BY ANY USE OF THE EQUIPMENT, WHATSOEVER. Lessor assigns to Lessee, without recourse, for the Term of this Lease all manufacturer warranties and guarantees, express or implied, pertinent to the Equipment, and authorizes Lessee to obtain the customary services furnished in connection with such guarantees and warranties at Lessee's expense.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.1 Events of Default Defined. The following shall be “events of default” under this Lease and the terms “Event of Default” and “default” shall mean, whenever they are used in this Lease, any one or more of the following events:

(a) Failure by Lessee to pay any Rental Payment or other payment required to be paid hereunder within fifteen (15) days of the time specified herein; and

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in Section 7.1 (a), for a period of 20 days (10 days in the case of a failure to comply with Section 10.2 hereof) after written notice, specifying such failure and requesting that it be remedied, is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected.

(c) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, or (iv) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding.

(d) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator for Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of thirty (30) consecutive days.

The foregoing provisions of this Section 7.1 are subject to (i) the provisions of Section 3.2 hereof with respect to an Event of Nonappropriation; and (ii) if by reason of force majeure Lessee is unable in whole or in part to carry out its agreement on its part herein contained, other than the obligations on the part of Lessee contained in Article IV hereof and Section 10.2 hereof, Lessee shall not be deemed in default during the continuance of such inability. The term “force majeure” as used herein shall mean, without limitation, the following: acts of God (which shall not include pandemics); strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of

the government of the United States of America or of the State of Utah or any of their departments, agencies or officials, or any civil or military authority; insurrections; landslides; earthquakes; fires; storms; floods; explosions; breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Lessee.

Section 7.2 Remedies on Default. Whenever any event of default referred to in Section 7.1 hereof shall have happened and be continuing, Lessor shall have the right, at its sole option without any further demand or notice to take one or any combination of the following remedial steps:

(a) With or without terminating this Lease, retake possession of the Equipment or by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly return the Equipment to Lessor in the manner set forth in Section 3.4 hereof and Lessor may sell, lease or otherwise dispose of the Equipment;

(b) Take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Lease or the Escrow Agreement or as a secured party in any or all of the Equipment or the Escrow Account;

(c) Terminate the Escrow Agreement and apply any proceeds in the Escrow Account to the Rental Payments due hereunder; and

(d) With or without terminating this Lease, declare all Rental Payments due during the Original Term or Renewal Term in effect on the date of the default to be immediately due and payable whereupon such Rental Payments shall be due and payable, but solely from legally available funds appropriated for such purpose.

Any amount realized upon a sale, lease or other disposition of the Equipment or from the exercise of any other remedies hereunder shall be applied as follows:

First: To pay all reasonable expenses of the repossession and/or disposition of the Equipment;

Second: To the payment of all principal (using for this purpose the Option Purchase Price) and interest (accrued to the date of payment) owing Lessor hereunder, and

Third: Any excess shall be returned to Lessee as an overpayment of rent hereunder.

Section 7.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as

may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article VII, it shall not be necessary to give any notice, other than such notice as may be required in this Article VII.

Section 7.4 No Deficiency Judgment. Anything in this Lease to the contrary notwithstanding, the remedies of Lessor hereunder shall be limited to repossession and disposal of the Equipment and no judgment for any deficiency or any other amounts owing hereunder shall be entered against Lessee except with respect to the Rental Payments due during the Original Term or Renewal Term in effect on the date of the default, but then solely from legally available funds appropriated for such purpose.

Section 7.5 Waiver of Certain Damages. With respect to all of the remedies of Section 7.2 above, Lessee expressly waives any damages occasioned by Lessor's repossession of the Equipment.

ARTICLE VIII

PAYMENT OF TAXES, FEES, PERMITS, AND UTILITY SERVICES

Section 8.1 Interpretation. This Lease for all purposes will be treated as a net lease.

Section 8.2 Taxes and Fees. Lessee agrees to pay and to indemnify and hold Lessor harmless from, all license, sales, use, personal property, and other taxes and fees, together with any penalties, fines, and interest on such taxes and fees imposed or levied with respect to the Equipment and the ownership, delivery, lease, possession, use, operation, sale, and other disposition of the Equipment, and upon the rental or earnings arising from any such disposition, except any federal or state income taxes payable by Lessor on such rental or earnings. Lessee may in good faith and by appropriate proceedings contest any such taxes and fees so long as such proceedings do not involve any danger of sale, forfeiture, or loss of the Equipment or of any interest in the Equipment.

Section 8.3 Permits. Lessee will obtain all permits and licenses necessary for the installation, operation, and use of the Equipment. Lessee will comply with all laws, rules, regulations, and ordinances applicable to the installation, use, possession, and operation of the Equipment. If compliance with any law, rule, regulation, ordinance, permit, or license requires changes or additions to be made to the Equipment, such changes or additions will be made by Lessee at its own expense.

Section 8.4 Utilities. Lessee will pay all charges for fuel, water, steam, electricity, light, heat, power, telephone, or other utilities furnished to or used in connection with the Equipment (including charges for installation of such services) during the Term of this Lease. There will be no abatement of rent on account of the interruption of any such services.

ARTICLE IX

USE, REPAIRS, ALTERATIONS, AND LIENS

Section 9.1 Use; Personal Property. Lessee has not (or, as applicable, will not) install, use, operate, or maintain the Equipment improperly, carelessly, in violation of any applicable law, or in a manner contrary to that contemplated by this Lease. Lessee agrees that the Equipment is and at all times will remain personal property notwithstanding that the Equipment or any part of the Equipment may now or hereafter become affixed in any manner to real property or to any building or permanent structure. Lessee shall comply with all license and copyright requirements of any software used in connection with the Equipment.

Section 9.2 Repairs. Lessee at its own cost will service, repair, and maintain the Equipment so as to keep the Equipment in as good condition, repair, appearance, and working order as when delivered to and accepted by Lessee under this Lease, ordinary wear and tear excepted. At its own cost, Lessee will replace any and all parts and devices which may from time to time become worn out, lost, stolen, destroyed, damaged beyond repair, or rendered unfit for use for any reason whatsoever. All such replacement parts, mechanisms, and devices will be free and clear of all liens, encumbrances, and rights of others, and immediately will become a part of the Equipment and will be covered by this Lease (for all purposes including the obligation of Lessee to retransfer title to Lessor under Section 1.2 herein) to the same extent as the Equipment originally covered by this Lease.

Section 9.3 Alterations. Lessee may install such miscellaneous equipment as may be necessary for use of the Equipment for its intended purposes so long as either (a) the installation of such miscellaneous equipment does not alter the function or manner of operation of the Equipment, or (b) Lessee, upon termination of this Lease, restores the Equipment to its function and manner of operation in existence prior to the installation of such miscellaneous equipment. Subject to the obligations described above, Lessee may remove such equipment upon termination of this Lease, if the removal of such equipment will not substantially damage the Equipment. Without the prior written consent of Lessor, Lessee will not make any other alterations, changes, modifications, additions, or improvements to the Equipment except those needed to comply with Lessee's obligations to change, add to, or repair the Equipment as set forth in Sections 9.2 and 10.3 herein. Any alterations, changes, modifications, additions, and improvements made to the Equipment, other than miscellaneous equipment which may be removed as set forth above, immediately will become a part of the Equipment and will be covered by this Lease (for all purposes, including the obligation of Lessee to retransfer title to Lessor under Section 1.2 herein) to the same extent as the Equipment originally covered by this Lease.

Section 9.4 Liens. Except with respect to the security interest provided in Section 1.3 hereof, Lessee will not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or claim on or with respect to the Equipment or any interest in the Equipment. Lessee promptly and at its own expense will take such action as may be necessary to duly discharge any mortgage, pledge, lien, charge, encumbrance, or claim, not excepted above, if the same arises at any time.

ARTICLE X

INDEMNIFICATION, INSURANCE, AND DAMAGE TO OR DESTRUCTION OF
THE EQUIPMENT

Section 10.1 Indemnification. Lessee shall, to the extent permitted by law, indemnify and hold Lessor harmless from and against any and all claims, liabilities, damages and expenses, including reasonable attorneys' fees, to the extent caused by Lessee's negligence in the use, operation, ownership or possession of the Equipment, including claims for property damage, personal injury or wrongful death, and excluding any claims, liabilities, damages and expenses arising out of the negligent acts or omissions of Lessor. Lessee is a governmental entity under the Governmental Immunity Act of Utah (the "Act"). Nothing in this Agreement may be construed as a waiver of any rights or defenses otherwise applicable to Lessee pursuant to the Act. Indemnification is limited to the amounts established in Section 63G-7-604 of the Act.

Section 10.2 Insurance. Lessee shall, at its sole discretion, either self-insure or maintain at all times during the Lease Term comprehensive general liability and property damage insurance with respect to the Lessee's operation or possession of the Equipment. The comprehensive general liability insurance limits shall be not less than the maximum limits for judgments provided for under the Governmental Immunity Act of Utah as set forth in Utah Code Ann. 63G-7-101 et seq, or any successor act, (such limits to be automatically increased as the related limits provided by State law are increased). In no event will the property insurance limits be less than the replacement cost with equipment of like kind and quality. Lessee shall furnish to Lessor a certificate of insurance or, if Lessee has self-insured, a letter or certificate regarding such self-insurance to be sent to _____.

Section 10.3 Damage to or Destruction of the Equipment. If all or any part of the Equipment is lost, stolen, destroyed, or damaged, Lessee will give Lessor prompt notice of such event and will, to the extent of insurance proceeds (including self-insurance) and legally available funds repair or replace (at the Lessee's sole discretion), the same at Lessee's cost within a reasonable time after such event, and any replaced Equipment will be substituted in this Lease by appropriate endorsement. All insurance proceeds received under the policies required under Section 10.2 with respect to the Equipment lost, stolen, destroyed, or damaged, will be paid to Lessee if the Equipment is repaired or replaced by Lessee as required by this Section. If Lessee fails or refuses to make the required repairs or replacement or if sufficient amounts are not available, such proceeds will be paid to Lessor to the extent of the then remaining principal balance of the related Rental Payments of this Lease plus accrued interest to the date of payment. No loss, theft, destruction, or damage to the Equipment will impose any obligation on Lessor under this Lease, and this Lease will continue in full force and effect regardless of such loss, theft, destruction, or damage.

ARTICLE XI

MISCELLANEOUS

Section 11.1 Assignment and Sublease by Lessee. Lessee may not assign, transfer, pledge, or encumber this Lease or any portion of the Equipment (or any interest in this Lease or the Equipment), or sublet the Equipment, without the prior written consent of Lessor. Consent to any of the foregoing acts shall not constitute a consent to any subsequent like act by Lessee or any other person. Lessee agrees that Lessor may impose on the Equipment or the title thereto such plates or other means of identification as necessary to indicate that the Equipment is subject to this Lease and the restrictions set forth in this Section.

Section 11.2 Assignment by Lessor. The parties hereto agree that all rights of Lessor hereunder may be assigned, transferred or otherwise disposed of, either in whole or in part; provided that (1) written notice of any such assignment, transfer or other disposition is given to Lessee at least ten (10) days prior thereto (except that any assignment of this Lease at the time of execution thereof may be made by written notice at the time of execution); and (2) prior to any such assignment, transfer or other disposition, the name, address and the Federal Tax I.D. number of the assignee or transferee must be registered on registration books maintained by Lessee for this Lease. Lessor shall pay all costs of such transfer and shall be responsible for notice to Lessee and provision to Lessee of the name, address and Federal Tax I.D. number of the assignee. Lessee shall maintain registration books for this Lease and shall be obligated to make the payments required hereby, including principal and interest payments, solely to the registered owner or owners hereof. Lessor will not be required to provide notice of assignment of a lease if the lease is assigned to its parent company or any wholly owned subsidiary of the parent company and Lessor agrees that it will still service the assigned Lease.

Section 11.3 Lessor's Right to Perform for Lessee. If Lessee fails to make any payment or fails to satisfy any representations, covenant, warranty, or obligation under this Lease, Lessor may (but need not) make such payment or satisfy such representation, covenant, warranty, or obligation on Lessee's behalf, and the amount of such payment and any expenses incurred by Lessor, as the case may be, together with interest thereon at a rate of the interest rate then in effect on this Lease plus 5% or the maximum amount permitted by law, whichever is less, will be deemed to be additional rent payable by Lessee on Lessor's demand.

Section 11.4 Addresses. All notices to be given under this Lease will be made in writing and mailed by registered or certified mail, return receipt requested, (a) if to Lessee, at the Utah Transit Authority, 669 West 200 South, Salt Lake City, Utah 84101, Attention: Treasurer, and if to Lessor, at _____, Attention: _____, until either Lessee or Lessor gives written notice to the other specifying a different address. Notice shall be deemed sufficiently given or made (a) upon receipt if delivered by hand, (b) on the Delivery Day after the day of deposit with a nationally recognized courier service, (c) on the third Delivery Day after the day of deposit in the United States mail, sent certified, postage prepaid with return receipt requested, and

(d) only if to Lessee, on the third Delivery Day after the notice is deposited in the United States mail, postage prepaid. "Delivery Day" means a day other than a Saturday, a Sunday, or any other day on which national banking associations are authorized to be closed.

Section 11.5 Manner of Payment. All payments by Lessee to Lessor hereunder will be made by check or fed wire transfer, or by other manner mutually acceptable to Lessor and Lessee.

Section 11.6 Nonwaiver. No breach by Lessee in the satisfaction of any representation, covenant, warranty, or obligation may be waived except by the written consent of Lessor, and any such waiver will not operate as a waiver of any subsequent breach. Forbearance or indulgence by Lessor in any regard whatsoever shall not constitute a waiver of the covenant or obligation and until complete performance by Lessee of said covenant or obligation Lessor shall be entitled to invoke any remedy available to it under this Lease despite said forbearance or indulgence. No collection of rent shall operate as a waiver of any default.

Section 11.7 Severance Clause. Any provision in this Lease which is prohibited by law will be treated as if it never were a part of this Lease, and the validity of the remaining terms of this Lease will be unaffected.

Section 11.8 Entire Agreement. This Lease and the attached Exhibits constitute the entire agreement between Lessor and Lessee and supersedes any prior agreement between Lessor and Lessee with respect to the Equipment, except as is set forth in an addendum, if any, which is made a part of this Lease and which is signed by Lessor and Lessee.

Section 11.9 Amendments. This Lease may be amended only by a written document signed by Lessor and Lessee.

Section 11.10 Inurement. Subject to the restrictions in Sections 11.1 and 11.2 above, this Lease is binding upon and inures to the benefit of Lessor and Lessee and their respective successors and assigns.

Section 11.11 Governing Law. This Lease is governed by the laws of the State of Utah, without giving effect to any choice of laws rules.

Section 11.12 Prevailing Party. In the event an action or other proceeding is filed with respect to the rights and obligations of the parties to this Lease, any judgment rendered in such action or proceeding shall, to the extent permitted by law, include a sum for attorney's fees in favor of the prevailing party.

Section 11.13 Offset. Rental Payments or other sums payable by Lessee pursuant to this Lease shall not be subject to set-off, deduction, counterclaim or abatement and Lessee shall not be entitled to any credit against such Rental Payments or other sums for any reason whatsoever, including, but not limited to any damage or destruction of the Equipment.

Section 11.14 Interest. If any Rental Payment or other amount payable hereunder is not paid within 15 days of its due date, Lessee shall pay to Lessor, solely from and to the extent of legally available funds appropriated for such purpose, an administrative late charge of 5% of the amount not timely paid or the maximum amount permitted by law, whichever is less.

Section 11.15 Nature of this Agreement. Lessor and Lessee agree that it is their intention that, (a) for federal income tax purposes, the interest of Lessor in the Equipment is as a secured party and the interest of Lessee is as a debtor with the aggregate principal amount of the Rental Payments constituting the purchase price of the Equipment, and (b) Lessor neither has nor will have any equity in the Equipment.

Section 11.16 Covenant Regarding Event of Taxability. Lessee hereby covenants and agrees that: (a) Lessee shall comply with all of the requirements of Section 149(a) and Section 149(e) of the Code, as the same may be amended from time to time, and such compliance shall include, but not be limited to, executing and filing Internal Revenue Form 8038G or 8038GC, as the case may be, and any other information statements reasonably requested by Lessor; (b) Lessee shall not do (or cause to be done) any act which will cause, or by omission of any act allow, any Lease to be an "arbitrage bond" within the meaning of Section 148(a) of the Code or any Lease to be a "private activity bond" within the meaning of Section 141(a) of the Code; and (c) Lessee shall not do (or cause to be done) any act which will cause, or by omission of any act allow, the interest portion of any Rent Payments to be or become includable in gross income for Federal income taxation purposes under the Code.

Upon the occurrence of an Event of Taxability, the interest portion of any Rent Payment shall be at the Taxable Rate retroactive to the date of occurrence of the Event of Taxability, and Lessee shall pay such additional amount as will result in Lessor receiving the interest portion of the Taxable Rate identified in the Payment Schedule. For purposes of this section, "Event of Taxability" means a determination that the interest portion of Rent Payments is included for federal income tax purposes in the gross income of the Lessor due to Lessee's action or failure to take action, including breach of covenants set forth herein. An Event of Taxability shall occur upon the date as of which the interest portion of the Rent Payments is determined by the Internal revenue Service to be includable in the gross income of the Lessor for federal income tax purposes.

Section 11.17 Anti-Corruption Language.

(a) Use of Proceeds. Lessee shall not use, or permit any proceeds of the Lease to be used, directly or indirectly, by Lessee or any of its subsidiaries or its or their respective directors, officers, employees and agents: (1) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws; (2) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country; or (3) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

(b) Definitions. For the purposes of this Section, the following terms shall have the following meanings: “Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Lessee or its subsidiaries from time to time concerning or relating to bribery or corruption. “Person” means any individual, corporation, partnership, limited liability company, joint venture, joint stock association, association, bank, business trust, trust, unincorporated organization, any foreign governmental authority, the United States of America, any state of the United States and any political subdivision of any of the foregoing or any other form of entity. “Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State. “Sanctioned Country” means, at any time, a country or territory which is the subject or target of any Sanctions. “Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person controlled by any such Person.

Section 11.18 Funding Conditions. Lessor shall have no obligation to fund any amounts under this Lease unless all reasonable conditions established by Lessor (“Funding Conditions”) have been satisfied, including, without limitation, the following: (a) Lessee has signed and delivered the Schedule and its Payment Schedule; (b) no Event of Default shall have occurred and be continuing; (c) no material adverse change shall have occurred in the Internal Revenue Code of 1986, as amended, and the related regulations and rulings thereunder (collectively, the “Code”); (d) no material adverse change shall have occurred in the financial condition of Lessee or any Supplier; (e) the Equipment is reasonably satisfactory to Lessor and is free and clear of any Liens (except Lessor's Liens); (f) all representations of Lessee in the Lease remain true, accurate and complete; and (g) Lessor has received all of the following documents, which shall be reasonably satisfactory, in form and substance, to Lessor: (1) evidence of insurance coverage required by the Lease; (2) an opinion of Lessee's counsel; (3) reasonably detailed invoices for the Equipment; (4) Uniform Commercial Code (UCC) financing statements; (5) copies of resolutions by Lessee's governing body authorizing the Lease and incumbency certificates for the person(s) who will sign the Lease; (6) such documents and certificates relating to the tax-exempt interest payable under the Lease (including, without limitation, IRS Form 8038G or 8038GC) as Lessor may request; and (7) such other documents and information previously identified by Lessor or otherwise reasonably requested by Lessor.

Section 11.19 Offshoring. Certain services may be performed by Lessee or any affiliate, including affiliates, branches or units located in any country in which Lessor conducts business or has a service provider. Lessee authorizes Lessor to transfer Lessee information to such affiliates, branches or units at such locations as the Lender deems appropriate. Lessor reserves the right to store, access, or view data in locations it deems appropriate for the services provided.

EXECUTED as of this _____, 2021.

LESSEE:
UTAH TRANSIT AUTHORITY

By: _____
Name: William C. Greene
Title: Chief Finance Officer & Treasurer

By: _____
Name: Troy Bingham
Title: Comptroller

By: _____
Name: David Wilkins
Title: Legal Counsel

LESSOR:
[LESSOR]

By: _____
Name: _____
Title: _____

APPENDIX A

Description of Equipment:
Closing Date: _____, 2021
Commencement Date: _____, 2021
Principal Amount: \$ _____
Interest Rate or Rates: _____ %
Prepayment Options:
The lease is subject to prepayment in whole or in part at the option of the Lessee on _____ or on any date thereafter, at the price of 100% of the remaining principal balance of the lease, as shown on <u>Appendix B</u> hereto.
Acquisition Period: Twenty-four (24) months from Commencement Date.

APPENDIX B

Rental Payments
(___ Year Lease Term)

<u>Date</u>	<u>Total Payment</u>	<u>Interest Component</u>	<u>Principal Component</u>	<u>Remaining Principal Balance</u>	<u>Purchase Option Price</u>
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APPENDIX C

OPINION OF LESSEE'S COUNSEL

[PLACE ON LETTERHEAD OF ATTORNEY GENERAL'S OFFICE]

Date: _____, 2021

To: _____

As counsel for the Utah Transit Authority (the "Lessee"), our office has examined duly executed originals of the three Equipment Lease-Purchase Agreements (collectively, the "Lease"), each dated _____, 2021, between the Lessee and _____ (the "Lessor"), and the proceedings taken by Lessee to authorize and execute the Lease. Based upon such examination as we have deemed necessary or appropriate, we are of the opinion that:

1. Lessee is a public transit district legally existing under the laws of the State of Utah.
2. The Lease has been duly authorized, executed, and delivered by Lessee.
3. The governing body of Lessee has complied with all applicable open public meeting and notice laws and requirements with respect to the meeting at which Lessee's execution of the Lease was authorized.
4. The Lease is a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms except as limited by the state and federal laws affecting remedies and by bankruptcy, reorganization, or other laws of general application affecting the enforcement of creditors' rights generally.
5. The Lease is in accordance with and does not violate the usury statutes of the State of Utah, if any.
6. There are no legal or governmental proceedings or litigation pending or, to the best of our knowledge, threatened or contemplated (or any basis therefor) wherein an unfavorable decision, ruling or finding might adversely affect the transactions contemplated in or the validity of the Lease.
7. The Equipment (as defined in the Lease) constitutes personal property and when subjected to use by Lessee will not become fixtures under applicable law.

(1) Lessor, its Assignee and any of their assigns may rely upon this opinion, and (2) Lessee is a political subdivision of the State as referred to in Section 103 of the IRS Code of 1986, and the related regulations and rulings thereunder.

APPENDIX D

ACCEPTANCE CERTIFICATE

To: _____

Reference is made to the Equipment Lease-Purchase Agreement (2021 - ____ Year) between the undersigned Utah Transit Authority (the "Lessee") and _____ (the "Lessor"), dated _____, 2021 (the "Lease") and to the Equipment as such term is defined therein. In connection therewith we are pleased to confirm to you the following:

1. All of the Equipment has been delivered to and received by the undersigned; all installation or other work necessary prior to the use thereof has been completed; said Equipment has been examined and/or tested and is in good operating order and condition and is in all respects satisfactory to the undersigned and as represented, and that said Equipment has been accepted by the undersigned and complies with all terms of the Lease. Consequently, you are hereby authorized to pay for the Equipment in accordance with the terms of any purchase orders for the same.
2. In the future, in the event the Equipment fails to perform as expected or represented we will continue to honor the Lease in all respects and continue to make our rental and other payments thereunder in the normal course of business and we will look solely to the vendor, distributor or manufacturer for recourse.
3. We acknowledge that Lessor is neither the vendor nor manufacturer or distributor of the Equipment and has no control, knowledge or familiarity with the condition, capacity, functioning or other characteristics of the Equipment.
4. [The serial or vehicle identification number for each item of Equipment which is set forth on Appendix A to the Lease is correct.]

This certificate shall not be considered to alter, construe, or amend the terms of the Lease.

DATE: _____, 20__

LESSEE:
UTAH TRANSIT AUTHORITY

By: _____
Name:
Title:

Witness

APPENDIX E
TAX CERTIFICATE

APPENDIX F

FORM 8038-G

APPENDIX G

DECLARATION OF OFFICIAL INTENT

APPENDIX H
ESCROW AGREEMENT



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: David Hancock, Acting Chief Service Development Officer
PRESENTER(S): David Hancock, Acting Chief Service Development Officer
Brandon Heath, Civil Engineer III

TITLE:

Contract: 3300 South Bus Stop Design (WSP USA, Inc.)

AGENDA ITEM TYPE:

Procurement Contract/Change Order

RECOMMENDATION:

Approve award and authorize the Executive Director to execute the contract and associated disbursements for the 3300 South Bus Stop Design Project to WSP USA INC in the amount of \$427,953.

BACKGROUND:

Utah Transit Authority was awarded Congestion Mitigation/Air Quality (CMAQ) grant funding to improve the bus service on 3300 South in Salt Lake County. UTA is seeking a consultant to complete right-of-way survey/topography, property coordination & acquisition, and engineering design work for bus stop improvements.

DISCUSSION:

An RFQu for professional services was issued to ensure that UTA could select a well-qualified consultant due to the challenging nature of the project. The scope of work in the RFQu included right-of-way survey/topography, property coordination & acquisition, and engineering design services. This was a qualifications based selection with the evaluation criteria being based on three technical factors. WSP USA INC received the highest total evaluated score and was selected by the review committee. After selection, a fair and reasonable price was negotiated with WSP and UTA performed a cost analysis to support the cost reasonableness. Included in the project are 36 bus stop locations along the 3300 South Corridor from West Temple to Wasatch Drive. Bus stop

layouts and included amenities will be adjusted based on how much space is available and if UTA can acquire the property. The tentative schedule for the project is to begin survey and property coordination in September 2021, complete engineering, and property acquisition in late spring 2022, with construction beginning mid-2022. Once completed, the corridor will be one of UTA's core routes offering upgraded bus passenger amenities and improved service.

CONTRACT SUMMARY:

Contractor Name:	WSP USA INC
Contract Number:	21-03433BM
Base Contract Effective Dates:	8/31/21 - 8/31/22
Extended Contract Dates:	N/A
Existing Contract Value:	\$427,953
Amendment Amount:	N/A
New/Total Amount Contract Value:	\$427,953
Procurement Method:	RFQu
Funding Sources:	2021 Capital Budget

ALTERNATIVES:

If the contract were not authorized, the project would look to utilize the capital program management services at a potentially higher cost and likely would cause delays in other projects.

FISCAL IMPACT:

The project funding is included in UTA's approved 2021 Capital Budget

ATTACHMENTS:

- 1) WSP USA INC Professional Services Agreement



UTA CONTRACT NO. 21-03433BM

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement is entered into and made effective as of the latest date on the signatures below (the "Effective Date") by and between UTAH TRANSIT AUTHORITY, a public transit district organized under the laws of the State of Utah ("UTA"), and WSP USA INC., a New York, New York Corporation ("Consultant").

RECITALS

- A. UTA desires to hire professional services to complete right-of-way survey/topography, property coordination & acquisition, and engineering design work for bus stop improvements.
- B. On April 26, 2021, UTA issued Request for Statement of Qualification Package Number 21-03433BM ("RFQu") encouraging interested parties to submit Statement of Qualifications to perform the services described in the RFQu.
- C. Upon evaluation of the Statement of Qualifications submitted in response to the RFQu, UTA selected Consultant as the preferred entity with whom to negotiate a contract to perform the Work.
- D. Consultant is qualified and willing to perform the Work as set forth in the Scope of Services.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereafter set forth, the mutual benefits to the parties to be derived here from, and for other valuable consideration, the receipt and sufficiency of which the parties acknowledge, it is hereby agreed as follows:

ARTICLE 1.0 Definitions

As used throughout this Contract, the following terms shall have the meanings set forth below:

- 1.1 The term "Change Order" shall mean a written modification to this Contract (the form of which shall be prescribed by UTA) pursuant to which the parties shall mutually agree upon and effect any additions, deletions, or variations in the Work (as such Work is initially defined by this Contract). The scope of modifications may include, without limitation, changes in the: (i) consideration paid to Consultant, (ii) deliverables required to be furnished by Consultant; (iii) method, manner or scope of the Work; or (iv) required performance completion milestones or other Contract schedule requirements.

- 1.2 The term “Claims” shall have the meaning set forth in Section 16.1 of this Contract.
- 1.3 The term “Consultant’s Project Manager” shall mean Jeremy Christensen, or his/her successor as appointed or designated in writing by Consultant.
- 1.4 The term “Consultant’s Statement of Qualification” shall mean 3300 South Bus Stop Design, RFQ No. 21-0-433BM, May 26, 2021.
- 1.5 The term “Contract” shall mean this Professional Services Agreement (inclusive of amendments and Change Orders hereto), together with all attached exhibits, all documents incorporated by reference pursuant to Article 26 hereof, and all drawings, reports, studies, industry standards, legal requirements and other items referenced in the foregoing documents.
- 1.6 The term “Indemnitees” shall mean the UTA parties set forth in Section 16.1 of this Contract.
- 1.7 The term “Scope of Services” shall mean the services described in or reasonably implied by this Contract including, but not limited to, Exhibit “A” (and all Contract requirements associated with such services).
- 1.8 The term “UTA’s Project Manager” shall mean Brandon Heath, or his/her successor as appointed or designated in writing by UTA.
- 1.9 The term “Work” shall mean any activities undertaken or required to be undertaken by Consultant in conjunction with the Scope of Services or Contract.

ARTICLE 2.0

Description of Services

- 2.1 Consultant shall perform all Work as set forth in the Scope of Services. Except for items (if any) which this Contract specifically states will be UTA-provided, Consultant shall furnish all the labor, material and incidentals necessary for the Work.
- 2.2 Consultant shall perform all Work under this Contract in a professional manner, using at least that standard of care, skill and judgment which can reasonably be expected from similarly situated professionals.
- 2.3 All Work shall conform to generally accepted standards in the transit industry. Consultant shall perform all Work in compliance with applicable laws, regulations, rules, ordinances, permit constraints and other legal requirements including, without limitation, those related to safety and environmental protection.
- 2.4 Consultant shall furnish only qualified personnel and materials necessary for the performance of the Work.
- 2.5 When performing Work on UTA property, Consultant shall comply with all UTA work site rules including, without limitation, those related to safety and environmental protection.

ARTICLE 3.0

Day-to-Day Management of the Work

- 3.1 Consultant’s Project Manager will be the day-to-day contact person for Consultant and will be

responsible for all Work, as well as the coordination of such Work with UTA.

- 3.2 UTA's Project Manager will be the day-to-day contact person for UTA, and shall act as the liaison between UTA and Consultant with respect to the Work. UTA's Project Manager shall also coordinate any design reviews, approvals or other direction required from UTA with respect to the Work.

ARTICLE 4.0

Progress of the Work

- 4.1 Consultant shall prosecute the Work in a diligent and continuous manner and in accordance with all applicable notice to proceed, critical path schedule and guaranteed completion date requirements set forth in (or developed and agreed by the parties in accordance with) the Scope of Services.
- 4.2 Consultant shall conduct regular meetings to update UTA's Project Manager regarding the progress of the Work including, but not limited to, any unusual conditions or critical path schedule items that could affect or delay the Work. Such meetings shall be held at intervals mutually agreed to between the parties.
- 4.3 Consultant shall deliver monthly progress reports and provide all Contract submittals and other deliverables as specified in the Scope of Services.
- 4.4 Any drawing or other submittal reviews to be performed by UTA in accordance with the Scope of Services are for the sole benefit of UTA, and shall not relieve Consultant of its responsibility to comply with the Contract requirements.
- 4.5 UTA will have the right to inspect, monitor and review any Work performed by Consultant hereunder as deemed necessary by UTA to verify that such Work conforms to the Contract requirements. Any such inspection, monitoring and review performed by UTA is for the sole benefit of UTA, and shall not relieve Consultant of its responsibility to comply with the Contract requirements.
- 4.6 UTA shall have the right to reject Work which fails to conform to the requirements of this Contract. Upon receipt of notice of rejection from UTA, Consultant shall (at its sole expense and without entitlement to equitable schedule relief) promptly re-perform, replace or re-execute the Work so as to conform to the Contract requirements.
- 4.7 If Consultant fails to promptly remedy rejected Work as provided in Section 4.6, UTA may (without limiting or waiving any rights or remedies it may have) perform necessary corrective action using other contractors or UTA's own forces. Any costs reasonably incurred by UTA in such corrective action shall be chargeable to Consultant.

ARTICLE 5.0

Period of Performance

- 5.1 This Contract shall commence as of the Effective Date. This Contract shall remain in full force and effect for an initial 1- year period expiring August 31, 2022. UTA may, at its sole election and in its sole discretion, extend the initial term for up to One additional one-year option periods, for a total Contract period not to exceed Two years. Extension options may be exercised by UTA upon

providing Consultant with notice of such election at least thirty (30) days prior to the expiration of the initial term or then-expiring option period (as applicable). This Contract may be further extended if the Consultant and UTA mutually agree to an extension evidenced in writing. The rights and obligations of UTA and Consultant under this Contract shall at all times be subject to and conditioned upon the provisions of this Contract.

ARTICLE 6.0

Consideration

- 6.1 For the performance of the Work, UTA shall pay Consultant in accordance with Exhibit B. Payments shall be made in accordance with the milestones or other payment provisions detailed in Exhibit B. If Exhibit B does not specify any milestones or other payment provisions, then payment shall be made upon completion of all Work and final acceptance thereof by UTA.
- 6.2 To the extent that Exhibit B or another provision of this Contract calls for any portion of the consideration to be paid on a cost-reimbursement basis, such costs shall only be reimbursable to the extent allowed under 2 CFR Part 200 Subpart E. Compliance with federal cost principles shall apply regardless of funding source for this Contract.
- 6.3 To the extent that Exhibit B or another provision of this Contract calls for any portion of the consideration to be paid on a time and materials or labor hour basis, then Consultant must refer to the not-to-exceed amount, maximum Contract amount, Contract budget amount or similar designation (any of these generically referred to as the "Not to Exceed Amount") specified in Exhibit B (as applicable). Unless and until UTA has notified Consultant by written instrument designated or indicated to be a Change Order that the Not to Exceed Amount has been increased (which notice shall specify a revised Not to Exceed Amount): (i) Consultant shall not be obligated to perform services or incur costs which would cause its total compensation under this Contract to exceed the Not to Exceed Amount; and (ii) UTA shall not be obligated to make payments which would cause the total compensation paid to Consultant to exceed the Not to Exceed Amount.
- 6.4 UTA may withhold and/or offset from payment any amounts reasonably reflecting: (i) items of Work that have been rejected by UTA in accordance with this Contract; (ii) invoiced items that are not payable under this Contract; or (iii) amounts Consultant owes to UTA under this Contract.

ARTICLE 7.0

Contract Changes

- 7.1 UTA's Project Manager or designee may, at any time, by written order designated or indicated to be a Change Order, direct changes in the Work including, but not limited to, changes:
 - A. In the Scope of Services;
 - B. In the method or manner of performance of the Work; or
 - C. In the schedule or completion dates applicable to the Work.

To the extent that any change in Work directed by UTA causes an actual and demonstrable impact to: (i) Consultant's cost of performing the work; or (ii) the time required for the Work, then (in either case) the

Change Order shall include an equitable adjustment to this Contract to make Consultant whole with respect to the impacts of such change.

- 7.2 A change in the Work may only be directed by UTA through a written Change Order or (alternatively) UTA's expressed, written authorization directing Consultant to proceed pending negotiation of a Change Order. Any changes to this Contract undertaken by Consultant without such written authority shall be at Consultant's sole risk. Consultant shall not be entitled to rely on any other manner or method of direction.
- 7.3 Consultant shall also be entitled to an equitable adjustment to address the actual and demonstrable impacts of "constructive" changes in the Work if: (i) subsequent to the Effective Date of this Contract, there is a material change with respect to any law or other requirement set forth in this Contract; or (ii) other conditions exist which materially modify the magnitude, character or complexity of the Work from what should have been reasonably assumed by Consultant based on the information included in (or referenced by) this Contract. In order to be eligible for equitable relief for "constructive" changes in Work, Consultant must give UTA's Project Manager or designee written notice stating:
 - A. The date, circumstances, and source of the change; and
 - B. That Consultant regards the identified item as a change in Work giving rise to an adjustment in this Contract. Consultant must provide notice of a "constructive" change and assert its right to an equitable adjustment under this Section within ten (10) days after Consultant becomes aware (or reasonably should have become aware) of the facts and circumstances giving rise to the "constructive" change. Consultant's failure to provide timely written notice as provided above shall constitute a waiver of Consultant's rights with respect to such claim.
- 7.4 As soon as practicable, Consultant must provide UTA with information and documentation reasonably demonstrating the actual cost and schedule impacts associated with any change in Work compensable under Section 7.1 or 7.3. Equitable adjustments will be made via Change Order. Any dispute regarding the Consultant's entitlement to an equitable adjustment (or the extent of any such equitable adjustment) shall be resolved in accordance with Article 20 of this Contract.

ARTICLE 8.0

Invoicing Procedures and Records

- 8.1 Consultant shall submit invoices to UTA's Project Manager for processing and payment in accordance with Exhibit B. If Exhibit B does not specify invoice instructions, then Consultant shall invoice UTA after completion of all Work and final acceptance thereof by UTA. Invoices shall be provided in the form specified by UTA. Reasonable supporting documentation demonstrating Consultant's entitlement to the requested payment must be submitted with each invoice. UTA shall have the right to disapprove (and withhold from payment) specific line items of each invoice to address non-conforming Work or invoicing deficiencies. Approval by UTA shall not be unreasonably withheld. UTA shall have the right to offset from payment amounts reasonably reflecting the value of any claim which UTA has against Consultant under this Contract. Payment for all invoice amounts not specifically

disapproved by UTA shall be provided to Consultant within thirty (30) calendar days of invoice submittal.

ARTICLE 9.0

Ownership of Materials

- 9.1 All data including, but not limited to, maps, drawings, sketches, renderings, software, hardware, and specifications, including the original thereof, developed by Consultant as a part of its Work under this Contract (collectively and generically referred to in this Article as “Work Product”) are the property of UTA. All Work Product must be delivered to UTA no later than the completion of the Work and prior to final payment by UTA. In the event this Contract is terminated prior to completion of the Work, then Consultant shall transmit all Work Product completed or in-process as of the date of termination. UTA shall not be construed to be the owner of any intellectual property contained in the Work Product that was owned or created by Consultant outside of the scope of this Contract. However, with respect to such intellectual property of Consultant, Consultant hereby grants UTA a non-exclusive perpetual license to use such intellectual property to the full extent reasonably necessary for UTA’s use and enjoyment of the Work Product furnished under this Contract. Notwithstanding the foregoing, the Consultant shall retain all common law, statutory, and other reserved rights, including copyrights to its standard design elements and Consultant details and the District shall be granted a non-exclusive license to reproduce such design elements and details relative to the Project.

ARTICLE 10.0

Subcontracts

- 10.1 Consultant shall give advance written notification to UTA of any proposed subcontract (not indicated in Consultant’s Statement of Qualification) negotiated with respect to the Work. UTA shall have the right to approve all subcontractors, such approval not to be withheld unreasonably.
- 10.2 No subsequent change, removal or substitution shall be made with respect to any such subcontractor without the prior written approval of UTA.
- 10.3 Consultant shall be solely responsible for making payments to subcontractors, and such payments shall be made within thirty (30) days after Consultant receives corresponding payments from UTA.
- 10.4 Consultant shall be responsible for and direct all Work performed by subcontractors.
- 10.5 Consultant agrees that no subcontracts shall provide for payment on a cost-plus-percentage-of-cost basis. Consultant further agrees that all subcontracts shall comply with all applicable laws.

ARTICLE 11.0

Key Personnel

- 11.1 Consultant shall provide the key personnel as indicated in Consultant’s Statement of Qualification (or other applicable provisions of this Contract), and shall not change any of said key personnel without the express written consent of UTA.

ARTICLE 12.0

Suspension of Work

- 12.1 UTA may, at any time, by written order to Consultant, require Consultant to suspend, delay, or interrupt all or any part of the Work called for by this Contract. Any such order shall be specifically identified as a "Suspension of Work Order" issued pursuant to this Article. Upon receipt of such an order, Consultant shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of further costs allocable to the Work covered by the order during the period of Work stoppage.
- 12.2 If a Suspension of Work Order issued under this Article is canceled, Consultant shall resume Work as mutually agreed to in writing by the parties hereto.
- 12.3 If a Suspension of Work Order is not canceled and the Work covered by such order is terminated for the convenience of UTA, reasonable costs incurred as a result of the Suspension of Work Order shall be considered in negotiating the termination settlement.
- 12.4 If the Suspension of Work causes an increase in Consultant's cost or time to perform the Work, UTA's Project Manager or designee shall make an equitable adjustment to compensate Consultant for the additional costs or time, and modify this Contract by Change Order.

ARTICLE 13.0

Termination for Convenience; Termination for Cause and Default Remedies

- 13.1 UTA shall have the right to terminate this Contract at any time by providing written notice to Consultant. If this Contract is terminated for convenience, UTA shall pay Consultant its costs and a reasonable profit on work performed up to the effective date of the termination notice, plus costs reasonably and necessarily incurred by Consultant to affect such termination. UTA shall not be responsible for anticipated profits based on Work not performed as of the effective date of termination. Consultant shall promptly submit a termination claim to UTA. If Consultant has any property in its possession belonging to UTA, Consultant will account for the same, and dispose of it in the manner UTA directs.
- 13.2 If Consultant materially fails to perform any of its obligations under this Contract, and such failure is not cured or a cure initiated to the satisfaction of UTA within ten (10) days after receipt of written notice from UTA, UTA may, at its discretion:
 - A. Terminate this Contract (in whole or in part) for default and complete the Work using other contractors or UTA's own forces, in which event Consultant shall be liable for all incremental costs so incurred by UTA;
 - B. Pursue other remedies available under this Contract (regardless of whether the termination remedy is invoked); and/or
 - C. Except to the extent limited by this Contract, pursue other remedies available at law.

Upon receipt of a termination notice as provided above, Consultant shall (i) immediately discontinue all Work affected (unless the notice directs otherwise); (ii) deliver to UTA all data, drawings and other deliverables, whether completed or in process; and (iii) if Consultant has any property in its possession belonging to UTA, account for the same, and dispose of it in the manner UTA directs. Consultant shall remit a final invoice for all services performed and expenses

incurred in full accordance with the terms and conditions of this Contract up to the effective date of termination. UTA shall calculate termination damages payable under this Contract, shall offset such damages against Consultant's final invoice, and shall invoice Consultant for any additional amounts payable by Consultant (to the extent termination damages exceed the invoice). All rights and remedies provided in this Article are cumulative and not exclusive.

- 13.3 If UTA terminates this Contract for any reason, Consultant shall remain available, for a period not exceeding 90 days, to UTA to respond to any questions or concerns that UTA may have regarding the Work completed by Consultant prior to termination.

ARTICLE 14.0

Information, Records, and Reports; Audit Rights

- 14.1 Consultant shall retain all books, papers, documents, accounting records and other evidence to support any cost-based billings allowable under Exhibit B (or any other provision of this Contract). Such records shall include, without limitation, time sheets and other cost documentation related to the performance of labor services, as well as subcontracts, purchase orders, other contract documents, invoices, receipts or other documentation supporting non-labor costs. Consultant shall also retain other books and records related to the performance, quality or management of this Contract and/or Consultant's compliance with this Contract. Records shall be retained by Consultant for a period of at least six (6) years after completion of the Work, or until any audit initiated within that six-year period has been completed (whichever is later). During this six-year period, such records shall be made available at all reasonable times for audit and inspection by UTA and other authorized auditing parties including, but not limited to, the Federal Transit Administration. Copies of requested records shall be furnished to UTA or designated audit parties upon request. Consultant agrees that it shall flow-down (as a matter of written contract) these records requirements to all subcontractors utilized in the performance of the Work at any tier.

ARTICLE 15.0

Findings Confidential

- a. Any documents, reports, information, or other data and materials available to or prepared or assembled by Consultant or subcontractors under this Contract are considered confidential and shall not be made available to any person, organization, or entity by Consultant without consent in writing from UTA.
- b. It is hereby agreed that the following information is not considered to be confidential:
 1. Information already in the public domain;
 2. Information disclosed to Consultant by a third party who is not under a confidentiality obligation;
 3. Information developed by or in the custody of Consultant before entering into this Contract;
 4. Information developed by Consultant through its work with other clients; and
 5. Information required to be disclosed by law or regulation including, but not limited to,

subpoena, court order or administrative order.

ARTICLE 16.0

General Indemnification and Insurance

- 16.1 Consultant shall protect, release, indemnify and hold harmless UTA and its trustees, officers, employees and agents (hereinafter collectively "Indemnitees") against and from any and all claims, demands, suits, losses, costs and damages of every kind and description, including attorneys' fees and/or litigation expenses (hereinafter collectively "Claims"), brought or made against or incurred by any of the Indemnitees resulting from or arising out of the negligent acts or omissions (actual or alleged) of Consultant, its subcontractors or anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable in conjunction with this Contract or any Work performed hereunder. If an employee of Consultant, a subcontractor, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against UTA or another Indemnitee, Consultant's indemnity obligation set forth above will not be limited by any limitation on the amount of damages, compensation or benefits payable under any employee benefit acts, including workers' compensation or disability acts.
- 16.2 For the duration of this Contract, Consultant shall maintain at its own expense, and provide proof of said insurance to UTA, the following types of insurance:
- A. Occurrence type Commercial General Liability Insurance ISO CG001, with an edition date of 11-88 or later, covering the indemnity and other liability provisions of this Contract, with no exclusions of explosion, collapse or underground hazards. The limits shall be \$2,000,000 per occurrence with an annual aggregate of \$4,000,000. The policy shall be endorsed to include the following additional insured language: "The Utah Transit Authority shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including completed operations."
 - B. Professional Liability insurance with the following limits and coverage's:
 - Minimum Limits:
 - \$1,000,000 each claim
 - \$2,000,000 annual aggregate
 - Coverages:
 - 1. Insured's interest in joint ventures
 - 2. Limited contractual liability
 - 3. Retroactive date prior to date
 - 4. Extended reporting period of 36 months

Coverage which meets or exceeds the minimum requirements will be maintained, purchased annually in full force and effect until 3 years past completion of the Work unless such coverage becomes unavailable to the market on a commercially reasonable basis, in which case Consultant will notify

UTA. If UTA agrees that such coverage is not reasonably available in the commercial market, Consultant may elect not to provide such coverage.

- C. Automobile insurance covering owned, if any, non-owned, and hired automobile with limits not less than \$2,000,000 combined single limit of coverage. The policy shall be endorsed to include the following additional insured language: "The Utah Transit Authority shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor."
 - D. Workers' Compensation insurance conforming to the appropriate states' statutory requirements covering all employees of Consultant, and any employees of its subcontractors, representatives, or agents as long as they are engaged in the work covered by this Contract or such subcontractors, representatives, or agents shall provide evidence of their own Worker's Compensation insurance. The policy shall also cover Employers Liability with limits no less than \$1,000,000 each accident, and each employee for disease. The policy shall contain a waiver of subrogation against UTA.
- 16.3 On insurance policies where UTA is named as an additional insured, UTA shall be an additional insured to the full limits of liability purchased by the Consultant. Insurance limits indicated in this agreement are minimum limits. Larger limits may be indicated after Consultant's assessment of the exposure for this contract; for its own protection and the protection of UTA. Consultant's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
- 16.4 Consultant warrants that this Contract has been thoroughly reviewed by its insurance agent, broker or consultant, and that said agent/broker/ consultant has been instructed to procure for Consultant the insurance coverage and endorsements required herein.
- 16.5 Consultant shall furnish UTA with certificates of insurance (ACORD form or equivalent approved by UTA) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and any required endorsements are to be received and approved by UTA before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.
- 16.6 UTA, as a self-insured governmental entity, shall not be required to provide insurance coverage for the risk of loss to UTA premises and improvements or equipment owned by UTA.

ARTICLE 17.0

Other Indemnities

- 17.1 Consultant shall protect, release, indemnify and hold harmless UTA and the other Indemnitees against and from any and all Claims of any kind or nature whatsoever on account of infringement relating to Consultant's performance under this Contract. If notified promptly in

writing and given authority, information and assistance, Consultant shall defend, or may settle at its expense, any suit or proceeding against UTA so far as based on a claimed infringement and Consultant shall pay all damages and costs awarded therein against UTA due to such breach. In case any portion of the Work is in such suit held to constitute such an infringement or an injunction is filed that interferes with UTA's rights under this Contract, Consultant shall, at its expense and through mutual agreement between the UTA and Consultant, either procure for UTA any necessary intellectual property rights, or modify Consultant's services or deliverables such that the claimed infringement is eliminated.

- 17.2 Consultant shall: (i) protect, release, indemnify and hold harmless UTA and the other Indemnitees against and from any and all liens or Claims made or filed against UTA or upon the Work or the property on which the Work is located on account of any labor performed or labor, services, and equipment furnished by subcontractors of any tier; and (ii) keep the Work and said property free and clear of all liens or claims arising from the performance of any Work covered by this Contract by Consultant or its subcontractors of any tier. If any lien arising out of this Contract is filed, before or after Work is completed, Consultant, within ten (10) calendar days after receiving from UTA written notice of such lien, shall obtain a release of or otherwise satisfy such lien. If Consultant fails to do so, UTA may take such steps and make such expenditures as in its discretion it deems advisable to obtain a release of or otherwise satisfy any such lien or liens, and Consultant shall upon demand reimburse UTA for all costs incurred and expenditures made by UTA in obtaining such release or satisfaction. If any non-payment claim is made directly against UTA arising out of non-payment to any subcontractor, Consultant shall assume the defense of such claim within ten (10) calendar days after receiving from UTA written notice of such claim. If Consultant fails to do so, Consultant shall upon demand reimburse UTA for all costs incurred and expenditures made by UTA to satisfy such claim.

ARTICLE 18.0

Independent Contractor

- 18.1 Consultant is an independent contractor and agrees that its personnel will not represent themselves as, nor claim to be, an officer or employee of UTA by reason of this Contract. Consultant is responsible to provide and pay the cost of all its employees' benefits.

ARTICLE 19.0

Prohibited Interest

- 19.1 No member, officer, agent, or employee of UTA during his or her tenure or for one year thereafter shall have any interest, direct or indirect, including prospective employment by Consultant in this Contract or the proceeds thereof without specific written authorization by UTA.

ARTICLE 20.0

Dispute Resolution

- 20.1 The parties shall attempt to informally resolve all claims, counterclaims and other disputes through the escalation process described below. No party may bring a legal action to enforce any term of this Contract without first having exhausted such process.

- 20.2 The time schedule for escalation of disputes, including disputed requests for Change Order, shall be as follows:

Level of Authority	Time Limit
UTA's Project Manager/Consultant's Project Manager	Five calendar days
UTA's Director of Supply Chain/Consultant's Local Business Lead	Five calendar days
UTA's Chief Financial Officer]/Consultant's District Transportation Lead	Five calendar days

Unless otherwise directed by UTA's Project Manager, Consultant shall diligently continue performance under this Contract while matters in dispute are being resolved.

- 20.3 If the dispute cannot be resolved informally in accordance with the escalation procedures set forth above, then either party may commence legal action in accordance with the venue and law provisions of this Contract. If mutually agreed, the parties may also submit the dispute to arbitration or mediation.

ARTICLE 21

Successors and Assignees

- 21.1 Consultant shall not assign, sublet, sell, transfer, or otherwise dispose of any interest in this Contract without prior written approval of UTA, and any attempted transfer in violation of this restriction shall be void.

ARTICLE 22.0

Nonwaiver

- 22.1 No failure or waiver or successive failures or waivers on the part of either party in the enforcement of any condition, covenant, or article of this Contract shall operate as a discharge of any such condition, covenant, or article nor render the same invalid, nor impair the right of either party to enforce the same in the event of any subsequent breaches by the other party.

ARTICLE 23.0

Notices or Demands

- 23.1 Any formal notice or demand to be given by one party to the other shall be given in writing by one of the following methods: (i) hand delivered; (ii) deposited in the mail, properly stamped with the required postage; (iii) sent via registered or certified mail; or (iv) sent via recognized overnight courier service. All such notices shall be addressed as follows:

If to UTA:
 Utah Transit Authority
 ATTN: Brian Motes
 669 West 200 South
 Salt Lake City, UT 84101

with a required copy to:
 Utah Transit Authority
 ATTN: Legal Counsel
 669 West 200 South
 Salt Lake City, UT 84101

If to Consultant:

WSP USA, Inc. ATTN: Shannon Bond

6150 S. Millrock Dr. Ste 225

Salt Lake City, UT 84121

- 23.2 Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice. Either party may change the address at which such party desires to receive written notice by providing written notice of such change to any other party.
- 23.3 Notwithstanding Section 23.1, the parties may, through mutual agreement, develop alternative communication protocols to address change notices, requests for information and similar categories of communications. Communications provided pursuant to such agreed means shall be recognized as valid notices under this Contract

ARTICLE 24.0

Contract Administrator

- 24.1 UTA's Contract Administrator for this Contract is Brian Motes, or designee. All questions and correspondence relating to the contractual aspects of this Contract should be directed to said Contract Administrator, or designee.

ARTICLE 25.0

General Provisions

- 25.1 Neither this Contract nor any interest herein may be assigned, in whole or in part, by either party hereto without the prior written consent of the other party, except that without securing such prior consent, either party shall have the right to assign this Contract to any successor or to such party by way of merger or consolidation or acquisition of substantially all of the entire business and assets of such party relating to the subject matter of this Contract, provided that such successor shall expressly assume all of the obligations and liabilities of such party under this Contract, and provided further, that such party shall remain liable and responsible to the other party hereto for the performance and observance of all such obligations.
- 25.2 This Contract shall be interpreted in accordance with the substantive and procedural laws of the State of Utah. Any litigation between the parties arising out of or relating to this Contract will be conducted exclusively in federal or state courts in the State of Utah and Consultant consents to the jurisdiction of such courts.
- 25.3 The headings of the articles, clauses, and sections of this Contract are inserted for reference purposes only and are not restrictive as to content.
- 25.4 The parties enter in to this Contract for the sole benefit of the parties, in exclusion of any third party, and no third party beneficiary is intended or created by the execution of this Contract.

- 25.5 Any provision of this Contract prohibited or rendered unenforceable by operation of law shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Contract.
- 25.6 This Contract shall constitute the entire agreement and understanding of the parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto.
- 25.7 Any amendment to this Contract must be in writing and executed by the authorized representatives of each party.
- 25.8 This Contract may be executed in any number of counterparts and by each of the parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Contract may be detached from any counterpart and reattached to any other counterpart hereof. The electronic transmission of a signed original of this Contract or any counterpart hereof and the retransmission of any signed facsimile transmission hereof shall be the same as delivery of an original.
- 25.9 Provisions of this Contract intended by their nature and content to survive termination of this Contract shall so survive including, but not limited to, Articles 9, 13, 14, 15, 16, 17, 19, 20 and 25.
- 25.10 UTAH ANTI-BOYCOTT OF ISRAEL ACT-Contractor agrees it will not engage in a boycott of the State of Israel for the duration of this contract.

ARTICLE 26.0

Incorporated Documents

- 26.1 UTA's RFQu 18-02926 including all federal clauses and other attachments, and Consultant's Statement of Qualification, are hereby incorporated into and made a part of this Contract, except to the extent that such documents were changed or altered by subsequent negotiations as indicated by the terms of this Contract, including Exhibits A, B and C.

ARTICLE 27.0

Insurance Coverage Requirements for Consultant Employees

- 27.1 The following requirements apply to the extent that: (i) the initial value of this Contract is equal to or in excess of \$2 million; (ii) this Contract, with subsequent modifications, is reasonably anticipated to equal or exceed \$2 million; (iii) Consultant has a subcontract at any tier that involves a sub-consultant that has an initial subcontract equal to or in excess of \$1 million; or (iv) any subcontract, with subsequent modifications, is reasonably anticipated to equal or exceed \$1 million:
 - A. Consultant shall, prior to the effective date of this Contract, demonstrate to UTA that Consultant has and will maintain an offer of qualified health insurance coverage (as defined by Utah Code Ann. § 17B-2a-818.5) for the Consultant's employees and the employee's dependents during the duration of this Contract.
 - B. Consultant shall also demonstrate to UTA that subcontractors meeting the above-described subcontract value threshold have and will maintain an offer of qualified health

insurance coverage (as defined by Utah Code Ann. § 17B-2a-818.5 for the subcontractor's employees and the employee's dependents during the duration of the subcontract.

IN WITNESS WHEREOF, the parties have made and executed this Contract as of the day and year first above written.

UTAH TRANSIT AUTHORITY: _____

By _____

Name _____

Title _____

Date _____

By _____

Name _____

Title _____

Date _____

By _____

Name _____

Title _____

Date _____

A DocuSigned by: _____ nt and Form by

 _____
70E33A415BA44F6...

Mike Bell, AAG State of Utah
and UTA Legal Counsel

Reviewed & Recommended by

Brandon Heath, UTA Project Manager

WSP USA INC.

By Shannon Bond

Name Shannon Bond

Title Utah Transportation Local Business Leader

Date 8/11/2021

By _____

Name _____

Title _____

Date _____

Fed ID# 11-1531569

Date: 8/13/2021

Date: _____

Exhibit A

Scope of Work and General Contract Assumptions

Scope of Work

Consultant will complete right-of-way survey/topography, property coordination & acquisition, and engineering design work for bus stop improvements. A total of 36 bus stop locations are included in this project. The bus stop layout and scope of the amenities will be adjusted based on how much space is available and whether or not UTA can acquire the right of way. See Exhibit C for locations and preliminary bus stop level assumptions. Some sites have alternative location options. Exhibit D shows conceptual designs for the proposed bus stop improvements (bus stop levels 3 to 7). The bus stop layout at each location will be guided by the level 3 to 7 conceptual designs. The intent is to build the highest bus stop level possible at each location.

Task 0: Project Management, Administration, and Coordination

Task 0.1 Project Supervision

The Consultant will provide the management, coordination, and direction to its subconsultants to supply the required services on time and within budget. Throughout the duration of the Project, the Consultant will hold progress and coordination meetings at an interval agreed upon by the Consultant and UTA.

Deliverables:

- Monthly progress and coordination meeting minutes
- Monthly invoices and progress reports

Task 0.2 Project Control

The Consultant will control and monitor its work progress and financial status. The Consultant will prepare and update the project schedule for the work to be completed under this Contract and update and submit the schedule monthly to the UTA Project Manager for review. The Consultant will develop work orders specifying the work to be completed, time schedule, staff hour budget, and deliverables. Should the Consultant require changes to the Scope of Work based on changing Project conditions, the Consultant will advise UTA concerning the scope and budget implications of such changes before work begins. If a change order is required for additional or changes to the Scope of Work, the Consultant will receive approval from UTA prior to beginning the modified scope of work. The Consultant will monitor its actual schedule and budget compared to UTA's projected schedule and budget for this Contract.

Deliverables:

- Project schedule with monthly updates

Task 1: Preliminary Design

The consultant will complete the preliminary design for each bus stop location identified in Exhibit A.

Task 1.1 Develop Concept Level Drawings and Preliminary Cost Estimate

Concept level design drawings will be developed for all bus stop locations. The drawings should provide enough detail to review and identify potential engineering issues or concerns related to the right of way. The preliminary design drawings should follow all guidelines as described in the UTA Bus Stop Master Plan and the provided conceptual bus stop layouts. UTA will review the preliminary designs and provide feedback. Right of way issues will likely warrant adjustments to the footprint and/or placement of the bus stop in later tasks. The consultant shall also prepare a preliminary cost estimate based on order-of-magnitude unit cost assumptions. The preliminary design plans should confirm that each bus stop meets following requirements:

- UTA Bus Stop Master Plan
- ADA Standards for Accessible Design
- UDOT Review & Approval
- Local Municipality Review & Approval
- Provide lighting at each location as shown in Concept Plans (determine feasibility & cost of wired connection vs. solar dusk-to-dawn lighting solutions)

Deliverables:

- PDF files with the concept level drawings and a preliminary cost estimate based on order-of-magnitude unit cost assumptions.

Task 1.2 Environmental Coordination

Initial environmental review has been completed. Preliminary design drawings will be provided to UTA's environmental team for additional review of any changes in location and/or layout from the initial environmental review. Following UTA's environmental team reviews, any environmental concerns will be considered in terms of mitigation or fatal flaws. UTA will coordinate with FTA to obtain approval for each bus stop location. UTA will inform the consultant of any environmental concerns that may impact the design.

Task 2A: Right of Way Surveying/Property Coordination

The consultant will identify the existing right of way and determine property needs for bus stop improvements. This task will require coordination with UTA's Property Administration team. Bus stop sites may have to be adjusted based ability to acquire the needed property.

Task 2.1 Survey Control

The consultant shall provide Right-of-Way Engineering and Survey Support Services. The following data may be used:

- Survey data research
- Boundary Maps
- Monumentation Maps
- Survey Control Maps
- Records of Survey
- Subdivision Maps
- Parcel Maps

The consultant shall prepare Boundary, Monumentation, and Survey Control Maps showing parcels and easement boundaries and their relationship to the Public Land Survey System monuments used to define them.

Deliverables:

- PDF and CADD Survey Control Sheets

Task 2.2 Identify Existing Right-of-Way

The consultant will conduct a complete title abstract search to determine fee ownership of all parcels within the project limits, including all adjacent contiguous parcels to determine the larger parcel. Copies of subdivision plats and road dedication plats will be retrieved. The consultant will conduct abstract research on all the parcels within the project limits with the County Recorder's Office to obtain any recorded Utility Easements.

Deliverables:

- Existing ROW Maps
- Spreadsheet with property information

Task 2.3 Identify Right of Way Needs

Right of way design will be prepared by the consultant with input from the project team. With assistance from the consultant, UTA will coordinate with the Utah Department of Transportation to determine how much right of way can be acquired from them to minimize impacts to private landowners.

Deliverables:

- List of affected properties

- Concept level drawings updated to show proposed R/W or easement

Task 2.4 Develop Right of Way Plans and Documents

The consultant will develop right of way plans and documents for the acquisition of land needed for bus stop improvements. Plans should show the required acquisitions and accommodate all aspects of the project, including fee ownership, slope easements, drainage easements, and utility relocation easements or documents.

The consultant will design proposed right of way lines to support the right of way plans. Right of Way plans will include the Title sheet, Survey Control Sheet (SC), the Total Tract Map (RWIT), and Right of Way sheets (RW). Parcel numbers should be clearly labeled.

The consultant will prepare legal descriptions for each parcel to be acquired. Right of Way purchase and easement needs will be determined and confirmed by the project team. The consultant will initiate and perform the required quality control reviews.

Deliverables:

- Right of way submittal packages that will include:
 - Summary cover sheet
 - Ownership record
 - Copy of Recorded Vesting Deeds
 - Deed and Easement Conveyance Instruments
 - Deed Plotter Printouts
 - 11 X 17 Right of Way maps
 - Complete QC-QA documentation
 - Complete PDF Summary Package

Task 2.5 Prepare Conveyance Instruments & Obtain Property/Easements

Upon completion of the right of way work, the consultant will begin property and/or easement acquisition on behalf of UTA. The consultant will prepare conveyance instruments (i.e., deeds and/or easements) for acquisitions. The consultant, in coordination with UTA, will be responsible for obtaining the property and/or easements. The consultants' acquisition agent must be UDOT approved. Eminent domain is not to be utilized, UTA shall provide the appropriate acquisition documents and make acquisition assignments as the Agency determines necessary for acquisition. There will be a 12-week minimum time frame for good faith negotiations. UTA will also subcontract with a PR Specialist to assist the consultant with property owner communication and negotiation.

Task 2B: Topographic Survey

The consultant will complete a topographic survey at locations indicated in Exhibit A.

Task 2.6 Design Topographic Survey

Conventional field surveys of all surface features within the project limits will be used to develop engineering base drawings and digital terrain models (DTM). This survey can be completed in conjunction with the right of way survey work. The consultant shall compile 2D planimetrics of all topographic features within project limits utilizing all applicable aerial and conventional field survey data within project limits. The consultant shall produce an existing ground DTM (in a Civil 3D Surface format) using all suitable aerial and conventional field survey data within project limits.

The consultant shall perform field inspection of survey data to ensure inclusion and proper identification of surface features and confirming data reflects current conditions.

Deliverables:

- Copy of the digital terrain models

Task 3: Final Design

The consultant will prepare the final design for each of the bus stop locations.

Task 3.1 Develop Final Design

Based on UTA's ability to obtain the right of way, the consultant will finalize the preliminary design developed in Task 1. The amenities provided and configurations of the stop may vary based on the available right of way. Regardless, each stop location should follow all guidelines as described in the UTA Bus Stop Master Plan and the provided conceptual bus stop layouts. The final design plans should confirm that each bus stop meets following requirements:

- UTA Bus Stop Master Plan
- ADA Standards for Accessible Design
- UDOT Review & Approval
- Local Municipality Review & Approval
- Grading, sidewalks/concrete, & walls and/or curbs meet existing elevations within available R/W
- Provide lighting at each location as shown in Concept Plans

Deliverables:

- PDF and CADD files with the final design drawings

Task 3.2 Environmental Coordination

The final design sheets will be provided to UTA's environmental team. UTA will be responsible for completing the Categorical Exclusion documentation. The consultant will answer questions and provide information related to the design as needed for the environmental documentation. The final design may need to be adjusted based on any findings.

Task 3.3 Capital Cost Estimates

Capital costs estimates will be developed for each bus stop location. The consultant should provide soft costs and contingency in the estimate. Details broken down by unit costs and quantities should be provided to allow for scalability should UTA reduce the scope based on funding constraints.

Deliverables:

- An Excel spreadsheet with the cost estimate

Task 4: Construction Management Support Services

The consultant will provide construction administrative services for the duration of the Project construction.

Task 4.1 Construction Administration

Task 4 will involve construction administrative services in support of UTA's construction management once the project has been bid and awarded to a contractor. These services include project documentation and site visits as needed to resolve contract and construction issues including:

- Review, respond to, and track submittals and RFI's
- Site Visits as required to resolve construction matters

Provide As-Built record drawings based upon contractor provided copies of the construction set

General Contract Assumptions

- UTA will provide bus stop facilities (bus shelters, benches, stop flags, timetable case and trash cans) once the bus stop is constructed. Design and specifications for these items will be provided by UTA.
- No fiber connections are planned at any of the bus stops.

- Project scope includes final design for 36 bus stop locations with a potential of 5 additional sites.
- Environmental clearance will be obtained by UTA.
- Project duration assumed to last 18 months (June 2021 - Nov 2022).
- In-person project meetings to be held biweekly during design.
- Design reviews are assumed to be broken into 3 packages (12 stops per package), with a single final advertising package that includes all 36 bus stop locations for construction.
- Short landscape walls (under 3' in height) may be required. UDOT structural retaining walls (greater than 3' exposed face) are not anticipated to be part of this scope of services.
- No utility relocation design is assumed.
- No irrigation/landscaping design is assumed. Irrigation repair for impacted systems will be lump sum to contractor (all-inclusive work).
- No subsurface utility exploration is part of this scope, assumption is that that all utilities are buried deeper than 24 inches.
- Design CAD platform is MicroStation.
- Plans and specifications will be submitted electronically, not printed.
- No traffic control plans are part of this work.

Right of Way (ROW) Assumptions

- Property discussions will be held with up to 48 property owners
- ROW survey data research includes 36 parcels
- Design level survey will be provided for 36 bus stop locations
- Parcel maps and legal descriptions will be provided for 36 bus stop locations

Task 1.0 Schematic Design Assumptions

- Design duration is 2 months
- PM to attend 1 site visit, Deputy PM to attend 1 site visit
- PM or Deputy PM to attend bi-weekly meeting with UTA PM
- Design Manager to attend all 7 site visits (6 stop locations per visit)
- Designers to attend each site visit
- ROW graphic to be produced for up to 48 locations for property owner discussions

Task 2.0 Design Development (30% design)

- Design duration is 3 months
- PM or Deputy PM to attend bi-weekly meeting with UTA PM
- Designers to develop up to 41 concept bus stop locations
- Survey to be completed for 36 bus stop sites
- Property owners will be allowed 8 weeks to decide if bus stop location is acceptable

Task 3.0 Construction Documents (100% design)

- Design duration is 2 months
- Hold 3 comment resolution meetings
- Complete final design on 36 bus stop locations

Task 4.0 Bidding Services

- Duration for bidding package/responding to RFI's is 2 months
- Up to 32 hours of design support

Task 5.0 Construction Services

- Duration is assumed to be 9 months
- Attend up to 4 meetings and 5 site visits
- Provide up to 24 hours of RFI design support
- No construction acceptance/inspection services are part of the estimated hours
- Provide up to 28 hours of as-built support
- As-builts will be marked up in PDF format, no additional survey or CAD work will be part of this effort

Exhibit B

FEE FOR PROFESSIONAL SERVICES AND PAYMENT SCHEDULE

The contract will be for a firm fixed price amount of \$427,953. Effort will be invoiced monthly for work and deliverables as noted in the Scope of Work, and approved for payment by UTA's project manager.

DETAILED PRICING DETAILED EFFORT AND HOURS

(Included on the next page)

3300 South Bus Stop Design													
Cost Proposal													
	Prime Firm Name:		WSP USA, Inc.										
			Prime Personnel Hours and Rates										
	Role:	Project Manager	Deputy Project Manager	Design Manager			ROW Acquisition	Lighting Specialist	Project Accountant	Subcontract s	ROW Graphics		
	Last Name:	Christensen	Shinall	Ferrer	Creager	Leether	N/A	Olien	Young	Monarez	Barnhill		
Task #	Hourly Rate:	\$94.94	\$68.57	\$66.38	\$36.75	\$36.08		\$69.39	\$46.19	\$41.38	\$49.12	Total Hours	Total Hourly Costs
1.0	Schematic Design (2 months)	17	45	60	29	28			2	5	96	282	\$15,773
2.0	Design Development (30% Design, 3 months)	18	36	73	126	126		41	3			423	\$21,183
3.0	Construction Documents (100% Design, 2 months)	16	25	150	216	216		288	2			913	\$48,997
4.0	Bidding Services (2 months)	16	12	12	4	4			2			50	\$3,522
5.0	Construction Services (9 months)	16	16	22	20	20			9			103	\$5,949
												0	\$0
												0	\$0
												0	\$0
Prime Personnel Hours & Costs (Raw Hours)		83	134	317	395	394	0	329	18	5	96	1771	\$95,424
										Overhead Multiplier (1.3075)		\$124,766	
											Fee (11%)		\$24,221
											WSP Labor Total		\$244,411
			Subconsultant Personnel Hours and Rates										
	Role:	ROW Acquisition	PLS	Survey PM	2-person crew	1 person crew	Survey admin						
	Last Name:	Padgett	Yates	Demass	Richter & Hackford	Richter	Carrol						
Task #	Hourly Rate:	\$75.00	\$135.00	\$110.00	\$135.00	\$105.00	\$45.00					Total Hours	Total Hourly Costs
1.0	Schematic Design (2 months)											0	\$0
2.0	Design Development (30% Design, 3 months)	948	150	35	350	274	24					1781	\$172,300
3.0	Construction Documents (100% Design, 2 months)											0	\$0
4.0	Bidding Services (2 months)											0	\$0
5.0	Construction Services (9 months)											0	\$0
												0	\$0
												0	\$0
												0	\$0
Total Subconsultant Hours & Costs		948	150	35	350	274	24					1781	\$172,300
									Subconsultant markup (4%)				\$6,892
Total Personnel Hours & Costs												3552	\$423,603
		Total Proposed Expenses											
												Mileage	\$4,000
												Printing / Copy Costs	\$300
												Phone / Postage / Delivery Costs	\$50
												Subtotal: Other Expenses	\$4,350
												Personnel	\$423,603
												Total Cost	\$427,953

Exhibit C

FEDERAL CLAUSES FOR ARCHITECT AND ENGINEERING SERVICE CONTRACTS

ACCESS REQUIREMENTS FOR PERSONS WITH DISABILITIES

Contractor shall comply with 49 USC 5301(d), stating federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794, which prohibits discrimination on the basis of disability; the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities; and the Architectural Barriers Act of 1968, as amended, 42 USC §4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities.

ACCESS TO RECORDS AND REPORTS

Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the Contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

Contractor agrees to comply with the record retention requirements in accordance with 2 CFR §200.333. Contractor shall maintain all books, records, accounts and reports required under the Contract for a period equal to the longer of: (i) three (3) years; or (ii) such longer period as may be specified in the Contract (except in the event of litigation or settlement of claims arising from the performance of the Contract, in which case records shall be maintained until the full and final disposition of all such claims or litigation (including appeals related thereto)).

Contractor agrees to provide sufficient access to United States Department of Transportation, Federal Transit Administration (FTA) and its contractors to inspect and audit records and information related to performance of the Contract as reasonably may be required.

Contractor agrees to permit FTA and its contractors access to the sites of performance under the Contract as reasonably may be required.

CHANGES TO FEDERAL REQUIREMENTS

Contractor shall comply with all applicable regulations, policies, procedures and directives of the FTA. Applicable regulations, policies, procedures and directives include, without limitation, those listed directly or by reference in the Master Agreement between UTA and FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to comply shall constitute a material breach of the Contract.

CIVIL RIGHTS REQUIREMENTS

In accordance with Federal transit law at 49 USC §5332, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue including, without limitation the following equal employment opportunity requirements:

(1) **Race, Color, Creed, National Origin, Sex** – In accordance with Title VII of the Civil Rights Act, as amended, 42 USC §2000e et seq., and federal transit laws at 49 USC §5332, Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Part 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 USC §2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 USC §2000e note. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

(2) **Age** – In accordance with the Age Discrimination in Employment Act, 29 USC §§621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 CFR Part 1625, the Age Discrimination Act of 1975, as amended, 42 USC §6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 CFR Part 90, and federal transit law at 49 USC §5332, Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

(3) **Disabilities** – In accordance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC §794, the Americans with Disabilities Act of 1990, as amended, 42 USC §12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 USC §4151 et seq., and federal transit law at 49 USC §5332, Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

Contractor also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance provided by FTA, modified only if necessary to identify the affected parties.

CLEAN AIR [Applicable Only to Contracts valued at more than \$150,000]

Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor agrees that it will not use any violating facilities. Contractor shall report each violation to UTA and understands and agrees that UTA will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

CLEAN WATER [Applicable Only to Contracts valued at more than \$150,000]

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to UTA and understands and agrees that UTA will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

CONFORMANCE WITH NATIONAL ITS ARCHITECTURE [Applicable Only to Contracts and Solicitations for Intelligent Transportation Systems]

To the extent applicable, Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 et seq., January 8, 2001, and any subsequent further implementing directives, except to the extent FTA determines otherwise in writing.

DEBARMENT AND SUSPENSION [Applicable Only to Contracts valued at more than \$25,000]

Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement)," 2 CFR Part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the Contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the Contract amount. As such, Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any federal department or agency to be: (i) debarred from participation in any federally assisted award; (ii) suspended from participation in any federally assisted award; (iii) proposed for debarment from participation in any federally assisted award; (iv) declared ineligible to participate in any federally assisted award; (v) voluntarily excluded from participation in any federally assisted award; and/or (vi) disqualified from participation in any federally assisted award. By submitting a response to UTA's solicitation for the Contract, Contractor has certified that the foregoing items (i) through (vi) are true. The certification in this clause is a material representation of fact relied upon by UTA. If it is later determined by UTA that Contractor knowingly rendered an erroneous certification, in addition to other remedies available that may be available to UTA, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor agrees to comply with the requirements of 2 CFR Part 180, subpart C, as supplemented by 2 CFR Part 1200, during the Contract term. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

DISADVANTAGED BUSINESS ENTERPRISES

(1) **FTA Policy** – The Contract is subject to 49 CFR Part 26. Therefore, Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of the Contract. UTA shall make all determinations with regard to whether or not Contractor is in compliance with the requirements stated herein.

(2) **Nondiscrimination** – Neither Contractor nor any subcontractor shall discriminate on the basis of race, color, national origin, or sex in the performance of the Contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FTA-assisted contracts. Failure by Contractor to carry out these requirements is a material breach of the Contract, which may result in the termination of the Contract or such other remedy as UTA deems appropriate, which may include, but is not limited to: (i) withholding monthly progress payments in whole or in part; (ii) assessing any liquidated damages as may be provided in the Contract; (iii) requiring Contractor to stand-down with respect to the Work (without an increase in the Contract cost or an adjustment to the Contract schedule) until Contractor achieves compliance with respect to these requirements and/or (iv) disqualifying Contractor from future participation in UTA contracts.

(3) **DBE Goals and Good Faith Efforts** – The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is race neutral. If a separate contract goal for DBE participation has been established for the Contract, it is listed in the solicitation

documents that have been incorporated into the Contract. Contractor is required to document sufficient DBE participation to meet the applicable goal. If Contractor is unable to meet the applicable goal, Contractor must alternatively document adequate good faith efforts to meet the DBE Goal. The types of actions that the UTA will consider as part of the Bidder/Offeror's good faith efforts include, but are not limited to, the following: (i) Contractor's attendance at a pre-bid meeting (as applicable) scheduled by UTA to inform DBEs of subcontracting opportunities; (ii) advertisement of subcontracting opportunities in general circulation media, trade association publications, and minority-focus media; (iii) written notification to capable DBEs that their interest in the Contract is solicited; (iv) documentation of efforts to negotiate with DBEs for specific subcontracts including the names, addresses, and telephone numbers of DBEs that were contacted and the date(s) of contact, a description of the information provided to DBEs regarding the work to be performed and a statement explaining why additional agreements with DBEs were not reached; (v) for each DBE Contractor contacted but rejected as unqualified, the reason for Contractor's conclusion; (vi) documentation of efforts made to assist the DBEs contacted that needed assistance in obtaining required bonding or insurance; (vii) documentation of efforts to utilize the services of small business organizations, community and contractor groups to locate qualified DBEs; (viii) documentation of Contractor's efforts to break out Contract work items into economically feasible units in fields where there are available DBE firms to perform the work; (ix) evidence that adequate information was provided to interested DBEs about the plans, specifications and requirements of the Contract, and that such information was communicated in a timely manner; and (x) documentation of any efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.

(4) **Race-Neutral Procurements** – If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

(5) **Verification of Compliance** – Contractor shall assist UTA in verifying compliance with the DBE requirements of the Contract by submitting status reports itemizing payments to all DBEs with each monthly request for payment. Upon Contract completion, Contractor shall submit a summary of payments, by subcontract, made to all subcontractors to UTA's Civil Rights Compliance Officer.

(6) **Prompt Payment of Subcontractors** – Contractor is required to pay its subcontractors performing work related to the Contract for satisfactory performance of that work no later than 30 days after Contractor's receipt of payment for that work from UTA. In addition, Contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to the Contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by UTA and Contractor's receipt of the partial retainage payment related to the subcontractor's work. The failure to make prompt payment to subcontractors as required above shall constitute a material breach of the Contract and shall give rise to remedies including, without limitation, the Authority's right to withhold amounts payable to the Contract and make direct payments (including interest) to subcontractors.

(7) **Termination of a DBE Subcontractor** – Contractor shall not terminate any DBE subcontractor identified in the Contract (or Contractor's response to the Contract solicitation) without UTA's prior written consent. UTA may provide such written consent only if Contractor has good cause to terminate the DBE subcontractor. Before transmitting a request to terminate, Contractor shall give notice in writing to the DBE subcontractor of its intent to terminate and the basis for the termination. Contractor shall give the DBE subcontractor five days to respond to the notice and advise of the reasons why the DBE subcontractor believes there is not good cause to terminate the subcontract. When a subcontract with the DBE subcontractor is terminated or when a DBE subcontractor fails to complete its work on the Contract for any reason, Contractor shall make

good faith efforts to find another DBE subcontractor to substitute for the original DBE subcontractor and immediately notify UTA in writing of its efforts to replace the original DBE subcontractor. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE subcontractor whose subcontract was terminated, to the extent needed to meet the applicable goal.

ENERGY CONSERVATION

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

FALSE STATEMENTS OR CLAIMS CIVIL AND CRIMINAL FRAUD

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or FTA assisted project for which the Contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on Contractor to the extent the US Government deems appropriate.

Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the federal government under the Contract, the federal government reserves the right to impose the penalties of 18 USC §1001 and 49 USC §5323(l) on Contractor, to the extent the federal government deems appropriate.

Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

FLY AMERICA REQUIREMENTS [Applicable Only to Contracts Involving Transportation of Persons or Property, by Air between the U.S. and/or Places Outside the U.S.]

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

INCORPORATION OF FTA TERMS

The Contract includes certain Standard Terms and Conditions required by the FTA, whether or not expressly stated in the Contract. All FTA-required contractual provisions, as stated in 2 CFR Part 200 or FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the

Contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause UTA to be in violation of FTA terms and conditions.

LOBBYING [Applicable Only to Contracts valued at more than \$150,000]

Byrd Anti-Lobbying Amendment, 31 USC 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 USC §1601, et seq.] – Contractors who apply or bid for an award of \$150,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier up to UTA.

NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

UTA and Contractor acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the federal government, the federal government is not a party to the Contract and shall not be subject to any obligations or liabilities to UTA, Contractor or any other party (whether or not a party to the Contract) pertaining to any matter resulting from the Contract. Contractor agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PATENT RIGHTS AND RIGHTS IN DATA [Applicable Only to Contracts Involving Experimental, Developmental or Research Work]

The Contract is funded through a federal award with FTA for experimental, developmental, or research work purposes. As such, certain patent rights and data rights apply to all subject data first produced in the performance of the Contract. Contractor shall grant UTA intellectual property access and licenses deemed necessary for the work performed under the Contract and in accordance with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of the Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of the Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

(1) The federal government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject

data or copyright described below. For “Federal Government Purposes,” means use only for the direct purposes of the federal government. Without the copyright owner’s consent, the Federal Government may not extend its federal license to any other party.

(i) Any subject data developed under the Contract, whether or not a copyright has been obtained; and

(ii) Any rights of copyright purchased by Contractor using federal assistance in whole or in part by the FTA.

(2) Unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA’s license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the federal government may direct.

(3) Unless prohibited by state law, upon request by the federal government, Contractor agrees to indemnify, save, and hold harmless the federal government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the federal government for any such liability arising out of the wrongful act of any employee, official, or agents of the federal government.

(4) Nothing contained in this clause on rights in data shall imply a license to the federal government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the federal government under any patent.

(5) Data developed by Contractor and financed entirely without using federal assistance provided by the federal government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.

(6) Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with federal assistance.

RECYCLED PRODUCTS

Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 USC §6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 CFR Part 247.

RESOLUTION OF DISPUTES, BREACHES AND OTHER LITIGATION

UTA and Contractor intend to resolve all disputes under the Contract to the best of their abilities in an informal manner. To accomplish this end, the parties will attempt to resolve disputes through communications between their respective staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within UTA and Contractor’s organization.

Unless otherwise directed by UTA, Contractor shall continue performance under the Contract while matters in dispute are being resolved.

Unless the Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between UTA and Contractor arising out of or relating to the Contract or its breach will be decided by alternative dispute resolution if the parties mutually agree, or in a court of competent jurisdiction within the State of Utah.

Duties and obligations imposed by the Contract and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by UTA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

SEISMIC SAFETY [Applicable Only to Contracts Involving Construction of new buildings or additions to existing buildings]

Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. Contractor shall also ensure that all work performed under the Contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

Domestic Preference

In accordance with 2 CFR 200.322 all contractors shall, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

For purposes of this clause:

- a. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through application of coatings, occurred in the United States.
- b. "Manufacturing products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

This requirement must be included in all subcontracts awarded under this award.

Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

In accordance with 2 CFR 200.216, contractor and its subcontractors are prohibited from expending funds under this contract for the procurement of equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

- a. "covered telecommunications equipment or services" is telecommunications or video surveillance equipment or services produced by:
 - a. Huawei Technologies Company

- b. ZTE Corporation
- c. Hytera Communications Corporation
- d. Hangzhou Hikvision Digital Technology Company
- e. Dahua Technology Company
- f. Any subsidiary of the above listed entities.

TERMINATION

Upon written notice to Contractor, UTA may, for its convenience and without cause, elect to terminate the Contract. If UTA terminates the Contract for its convenience, Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination., but excluding consequential damages (which includes, but is not limited to, lost profits and/or opportunity costs associated with the terminated portion of the work).

UTA may terminate this contract in whole or in part, for UTA's convenience or because of the failure of Contractor to fulfill the contract obligations. UTA shall terminate by delivering to Contractor a notice of termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise), and (ii) deliver to UTA's project manager all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing the Contract, whether completed or in process. UTA has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

Accept Terms of Clauses Shannon Bond Date 8.12.2021
Company Name WSP USA, Inc.
Federal I.D. No. 11-1531569



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: David Hancock, Acting Chief Service Development Officer
PRESENTER(S): David Hancock, Acting Chief Service Development Officer
Andrea Pullos, Project Manager

TITLE:

Change Order: Ogden/WSU Bus Rapid Transit Change Order #9 - Waterline Tie-In Installation (Stacy & Witbeck, Inc.)

AGENDA ITEM TYPE:

Procurement Contract/Change Order

RECOMMENDATION:

Approve and authorize Executive Director to execute a change order to the contract and associated distributions with Stacy & Witbeck Inc. in the amount of \$227,400

BACKGROUND:

In 2019, UTA released a best value procurement for construction of the Ogden/Weber State University (WSU) Bus Rapid Transit (BRT) project. Bids were received and evaluated, and Stacy & Witbeck Inc. was awarded the project. An amendment to the project was awarded March 19, 2021 for the construction of the project.

DISCUSSION:

As part of the Ogden/WSU BRT project, Ogden City had planned to sign a betterment agreement for UTA to construct a waterline in Harrison Blvd. Plans were made for this, but prior to the final set of plans being processed, Ogden City decided to have the work done by a different contractor under its own contract. After the BRT construction contract was signed, UTA and designers realized that the laterals connecting to the new waterline had been unintentionally left out of the project and needed to be installed by the project. This change order is for the installation of the laterals to connect to the Harrison waterline. The change order amount of \$227,400 has been determined to be fair and reasonable based on an Independent Cost Estimate.

CONTRACT SUMMARY:

Contractor Name:	Stacy & Witbeck Inc
Contract Number:	19-03114-9
Base Contract Effective Dates:	December 23, 2019
Extended Contract Dates:	October 9, 2023
Existing Contract Value:	\$63,242,628
Amendment Amount:	\$227,400.00
New/Total Amount Contract Value:	\$63,470,028
Procurement Method:	Best Value
Funding Sources:	FTA, UTA, and Partner Funding

ALTERNATIVES:

None

FISCAL IMPACT:

The original budget accounted for this work. This project is included in UTA's approved 5-Year Capital Plan.

ATTACHMENTS:

Change order

Utah Transit Authority
669 West 200 South
Salt Lake City, Utah 84101
Phone: (801) 741-8885
Fax: (801) 741-8892



CHANGE ORDER

No. 9

TITLE: Harrison Waterline tie ins (NDC 002)
PROJECT/CODE: MSP185 - Ogden-WSU BRT/Weber Intermodal
TO: Stacy and Witbeck, Inc.
ATTN: Maverick Gibbons

DATE: 8/20/2021
This is a change order to
CONTRACT No: 19-3114BM

DESCRIPTION OF CHANGE: Brief scope, references to scope defining documents such as RFIs, submittals, specified drawings, exhibits, etc.

Ogden City wanted UTA to do a water betterment along Harrison, but prior to final plans, all this was removed and Ogden City did the mainline themselves. However, all the water tie-ins to the main line still need to be completed. This change order is for those water tie ins.

Direction or Authorization to Proceed (DAP) previously executed: YES ____ NO X__

It is mutually agreed upon, there is a schedule impact due to this Change order: YES ____ NO X__

The amount of any adjustment to time for Substantial Completion and/or Guaranteed Completion or Contract Price includes all known and stated impacts or amounts, direct, indirect and consequential, (as of the date of this Change Order) which may be incurred as a result of the event or matter giving rise to this Change Order. Should conditions arise subsequent to this Change Order that impact the Work under the Contract, including this Change Order, and justify a Change Order under the Contract, or should subsequent Change Orders impact the Work under this Change Order, UTA or the Contractor may initiate a Change Order per the General Provisions, to address such impacts as may arise.

Current Change Order		Contract		Schedule	
Lump Sum:	\$227,400	Original Contract Sum:	\$61,572,136	Final Completion Date Prior to This Change:	10/9/2023
Unit Cost:	-	Net Change by Previously Authorized Changes:	\$1,670,492	Contract Time Change This Change Order (Calendar Days):	0
Cost Plus:	-	Previous Project Total:	\$63,242,628	Final Completion Date as of This Change Order:	10/9/2023
Total:	\$227,400	Net Change This Change Order:	\$227,400	ACCEPTED:	
		Current Project Total:	\$63,470,028		

By:

Date:

Maverick Gibbons
Stacy and Witbeck, Inc.

By:

Date:

Andrea Pullos
Project Manager <\$10,000

By:

Date:

Jared Scarbrough
Acting Director of Capital Construction <\$50,000

By:

Date:

David Hancock
Acting Chief Service Dev Officer <\$100,000

By:

Date:

Brian Motes
Procurement

By:

Date: 8/23/2021

Michael Bell
Legal Review

By:

Date:

Mary DeLoretto
Interim Executive Director >\$100,000



Change Order Summary Worksheet
Previously Authorized Changes

Contract	19-3114BM SWI
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Change Order No	Date	Amount of CO	Running Contract Total	Subject
Original Contract			\$61,572,136	
1	11/20/2020	\$0	\$61,572,136	Ogden BRT Phase 2 Early Utility Work and Demolition
2	3/19/2021	\$0	\$61,572,136	Phase II Construction Services Amendment
3	5/21/2021	\$79,765	\$61,651,901	25th and Washington Ogden City Water Line
4	6/18/2021	\$248,604	\$61,900,505	Change to Titan Concrete Mix
5	6/18/2021	\$55,037	\$61,955,542	PCO-004 Haz-Mat Testing and PCO-010 1st Qtr Contractor Incentive
6	7/16/2021	\$107,977	\$62,063,519	Various Scope Modifications for PCO-005, 008, 011, 012 and 014
7	7/16/2021	\$96,940	\$62,160,459	Furnish and Install Wi-Fi on WSU Campus
8	7/16/2021	\$1,082,169	\$63,242,628	Mount Ogden Business Unit (MOBU) Electric Bus Charging
Total to Date		\$ 1,670,492		



August 17, 2021

SWI Change Order Request 013

Andrea Pullos
Project Manager
Utah Transit Authority
669 West 200 South
Salt Lake City, UT 84101

Reference: Ogden WSU BRT Project
UTA Contract No.: 19-3114BM

Subject: NDC 002 – Waterline Changes on Harrison

Dear Andrea,

We are pleased to submit our pricing for NDC 002 – Water Changes on Harrison. The waterline work on Harrison was identified during GMP negotiations as an Ogden City betterment and was not included in the Phase 2 construction contract. Ogden City has since decided to complete much of the betterment work under a different contract. NDC 002 drawings represent the water work that remains to be done under this contract. This proposal includes additional work for the lateral and other remaining water work that was not included in the Phase 2 Construction Contract. Trench paving was not removed as part of the betterment. NDC 002 has decreased the amount of trench paving needed, so this proposal includes a credit for trench paving. Based on these changes, we are requesting a change order in the amount of **\$227,440 and 0 additional days**. This cost only includes the changes related to the waterline work on Harrison. All other changes in NDC 002 will be submitted separately. A price breakdown of the proposal is included with this request.

If you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,
Stacy and Witbeck, Inc.

Maverick Gibbons
Project Manager

08/17/2021
1574-PCO032A
*** Steve Smith, SS

15:11
UTA Ogden-WSU BRT PCO 032 WATER
BID TOTALS

<u>Biditem</u>	<u>Description</u>	<u>Quantity</u>	<u>Units</u>	<u>Unit Price</u>	<u>Bid Total</u>
100000	WATERLINE CHANGES (COP)	1.000	LS	217,155.20	217,155.20
430300	ASPHALT PAVEMENT HMA 1/2-INCH - ROADW	-258.000	TON	119.50	-30,831.00
Direct Total					\$186,324.20
70015000	Small Tools and Supplies	1.000	LS		
70040000	QC & QA (2.75%)	1.000	LS	5,123.92	5,123.92
70050000	Surveying (1.2%)	1.000	LS	2,235.89	2,235.89
70060000	Safety (\$1.50/MH)	1.000	LS		
73000000	Insurance (1.89%)	1.000	LS	4,298.62	4,298.62
73020000	Bonds (0.65% + Sub Bonds)	1.000	LS	6,136.47	6,136.47
74020000	Risk (4%)	1.000	LS	7,452.97	7,452.97
Indirect Total					\$25,247.87
Subtotal					\$211,572.07
80000000	CMGC Fee (7.5%)	1.000	LS	15,867.80	15,867.80
Bid Total =====>					\$227,439.87

Project: BRT Laterals
 Client: Stacy Witbeck
 Attention: _____
 Phone: _____
 Email: _____

Date:	21-Jul-21
Contractor:	COP Construction
Contact:	Andy Weber
Phone:	801-683-5310
Email:	aweber@copconstruction.com

Bid Item #	Bid Item Description	Quantity	Unit	Unit Price	Total Price
1	Mobilization	1	LS	\$ 30,000.00	\$ 30,000.00
2	Service Laterals to plateform	2	EA	\$ 11,600.00	\$ 23,200.00
3	Removal of Services	8	EA	\$ 1,500.00	\$ 12,000.00
4	Installation of Fir Hydrant	1	EA	\$ 16,000.00	\$ 16,000.00
5	Service Laterals	8	EA	\$ 11,000.00	\$ 88,000.00
6	Reroute Waterlineat 615+00	1	LS	\$ 26,000.00	\$ 26,000.00
7	Remove aspshalt	80	SY	\$ 48.00	\$ 3,840.00
8	Install Temp Asphalt	80	SY	\$ 115.00	\$ 9,200.00
9	Remove and Replace curb where it is required	80	LF	\$ 57.00	\$ 4,560.00
10	Remove and Replace Sidwalk	128	SF	\$ 12.00	\$ 1,536.00
11	Sawcut Asphalt	8640	inft	\$ 0.25	\$ 2,160.00
12	Sawcut Concrete Sidewalk	384	inft	\$ 0.55	\$ 211.20
13	Sawcut Curb Cut	16	EA	\$ 28.00	\$ 448.00
					\$ -
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					\$ -
					\$ -
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					\$ -
					\$ -
					\$ -
				Bid Total	\$ 217,155.20

Pricing based on minimum quantities provided at bid time. Proposal Package cannot be broken up without written consent. No deduction in total bid price will be accepted unless agreed upon in writing. Quantity overruns will be billed at unit prices provided.

Bid is good for 15 days

- 109

Bid EXCLUDES the following scope of work:

- Any Item Not Included Above
- Bonds, performance or payment (1% if Required)
- Construction Access
- Contact Grouting of Casing
- Engineering Services
- Inspection or Testing of any kind
- Onsite Security
- Permits or Fees , Will assist with information for UDOT Enchroachment Permit
- Potholing, Utility Locating
- Protection or Monitoring of Existing Utilities or Surface Structures
- Railway Flagging or Insurance
- Relocation of Utilities in Conflict with Alignment
- Surface Restoration of any kind
- Survey, Alignment & Grade Staking
- SWPPP
- Traffic Control
- Landscape restoration and sprinkler repair
- platform concrete or above grade piping
- Striping

General Notes:

- *Stand By Time will be billed at \$500 per hour*

Standby is for delays beyond the control of COP (i.e. site access, survey and staking not complete, obstructions encountered, rocks, boulders, ground conditions inconsistent with information provided at bid time.)

- Bid for one crew working normal business hours
- No Holidays or Weekends, unless mutually agreed upon

Sincerely,

Andy Weber

Estimator - COP Construction LLC



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: David Wilkins, Assistant Attorney General and Director-Transit Section
PRESENTER(S): David Wilkins

TITLE:

Disbursement: Approval of disbursement over \$200,000 (Bruce Jones Litigation Settlement)

AGENDA ITEM TYPE:

Disbursement

RECOMMENDATION:

Authorize the disbursement

BACKGROUND:

UTA has reached a conclusion to the employment arbitration with Bruce Jones that will exceed \$200,000 in the matter of Bruce Jones vs UTA. The hearing occurred at the offices of Holland and Hart in Salt Lake City for 5 days from May 17 through May 21, 2021, before a single Arbitrator, George Haley. Bruce Jones (Jones) was represented by Richard Burbidge, Carolyn LeDuc and Michael Henderson of the law firm Burbidge Mitchell. Utah Transit Authority (UTA) was represented by Sam Alba, Scott Young and Matthew Purcell of the law firm Snow, Christensen and Martineau. Eleven fact witnesses were called and cross-examined, 6 expert witnesses were called, submitted reports and were cross examined. The parties filed extensive written post-hearing briefs, including legal authorities cited. The parties also submitted post-hearing deposition designations and counter-designations. Having heard the testimony and reviewed the foregoing material the arbitrator made a decision in the case in favor of Jones and against UTA on all claims. That award has been converted to a judgment before the Third District Court in Salt Lake City. The pension portion of the award will be taken up with the UTA Pension Committee.

DISCUSSION:

This disbursement is comprised of the following awarded damages to Mr. Jones:

UTA Employee Retirement Plan's portion of the award

1. Past shortfall on retirement payments with prejudgment interest \$ 482,572
2. Present value of all future retirement payments \$ 1,684,447

UTA's portion of the award

1. Health Insurance payment with prejudgment interest \$ 94,283
2. Incentive Payment, with prejudgment interest \$ 791,535
3. Jones's legal fees \$ 934,823.24

Total Award

\$ 3,987,660.24

ALTERNATIVES:

Failure to pay the award would have UTA in violation of a Court-ordered judgment, and leave the agency subject to garnishments, and seizure of property to satisfy the award.

FISCAL IMPACT:

UTA Employee Retirement Plan would pay \$2,167,019. This could affect the actuarial evaluation of the pension trust in 2021.

UTA Self Insurance Fund would pay \$1,820,641.24. Losses that exceed recoveries in this fund are repaid out of the Risk Management budget at the end of the year.

ATTACHMENTS:

Settlement



Richard D. Burbidge (#0492)

rburbidge@burbidgemitchell.com

Carolyn LeDuc (#14240)

cleduc@burbidgemitchell.com

Michael Henderson (#17237)

mhenderson@burbidgemitchell.com

BURBIDGE | MITCHELL

215 South State Street, Suite 920

Salt Lake City, Utah 84111

Telephone: 801-355-6677

Facsimile: 801-355-2341

Attorneys for Bruce Jones

**IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH**

<p>BRUCE JONES, an individual</p> <p>Plaintiff,</p> <p>vs.</p> <p>UTAH TRANSIT AUTHORITY and DOES 1-20,</p> <p>Defendants.</p>	<p>JUDGMENT</p> <p>Case No. 190909531</p> <p>(Consolidated with Case No. 190909532)</p> <p>Judge Patrick Corum</p> <p>(Tier 3)</p>
<p>UTAH TRANSIT AUTHORITY,</p> <p>Plaintiff,</p> <p>vs.</p> <p>BRUCE JONES and ALLEN YOUNG,</p> <p>Defendants.</p>	

By oral rulings of the Court dated March 11, 2020 and July 1, 2020, the Court referred the parties' respective claims to arbitration. The subject arbitration proceedings have now been concluded and the arbitration rulings have been presented to this Court for confirmation and entry of judgment. Pursuant to Utah R. Civ. P. 54, the Court now enters its final judgment fully resolving all claims and defenses of Bruce Jones and the Utah Transit Authority, as follows:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. Bruce Jones shall recover from the Utah Transit Authority the sum of **\$3,987,660.24** itemized as follows:
 - a. **\$482,572** for past shortfall on retirement payments from the UTA pension plan, with prejudgment interest;
 - b. **\$1,684,447** in present value for all future retirement payments from the UTA pension plan;
 - c. **\$94,283** in health insurance benefits, with prejudgment interest;
 - d. **\$791,535** for an Incentive Payment, with prejudgment interest;
 - e. **\$ 899,325.00** in Attorneys' Fees; and
 - f. **\$35,498.24** in cost.
2. Utah Transit Authority shall recover nothing from Bruce Jones.

The Court's signature is affixed to the upper right-hand corner of this document.
END OF ORDER

APPROVED AS TO FORM:

BURBIDGE | MITCHELL

/s/ Richard D. Burbidge

Richard D. Burbidge

Carolyn LeDuc

Michael S. Henderson

Attorneys for Bruce Jones

SNOW, CHRISTENSEN & MARTINEAU

/s/ Richard D. Burbidge (with permission of Scott Young)

Sam Alba

Scott Young

Matthew Purcell

Attorneys for Defendants



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: Todd Mills, Director of Supply Chain
PRESENTER(S): Todd Mills, Director of Supply Chain

TITLE:

Pre-Procurements:

- Lubricants and Fluids for Vehicle Maintenance
- Electronic Rail Platform Sign Replacement
- Holiday Employee Gift Cards

AGENDA ITEM TYPE:

Pre-Procurement

RECOMMENDATION:

Informational report for discussion

BACKGROUND:

Utah's Public Transit District Act requires all contracts valued at \$200,000 or greater be approved by the UTA Board of Trustees. This informational report on upcoming procurements allows Trustees to be informed and provide input on upcoming procurement projects. Following the bid solicitation and contract negotiation process, final contracts for these projects will come before the board for approval.

DISCUSSION:

The following projects, services, or products have an approved requisition by the Executive Director and are ready for bid solicitation:

- **Lubricants and Fluids contract for vehicle maintenance.** This Procurement is to establish a contract with a supplier, or multiple suppliers, to supply UTA with lubricants and fluids necessary to maintain UTA's Rail and Bus fleet. These include various motor oils, gear oils, transmission fluids, and greases. This will be a requirements contract, where UTA will purchase the lubricant exclusively from the awarded supplier during the term of the contract in exchange for a discounted price and guaranteed

delivery. This procurement will be for a 5 year contract and will be conducted as an Invitation for Bid (IFB), where contract award will be given to the lowest bid. (NPD, Todd Mills)

- ***Electronic Rail Platform Sign Replacement.*** This procurement is for a phased replacement of the electronic rail platform customer signs. The current signs have been in service for 10 years and the warranty has expired. As part of our State of Good Repair program UTA is requesting proposals from qualified vendors to furnish a commercial, off-the-shelf, real-time information sign solution for use at our rail platforms. The deployment will be a phased replacement project with an initial purchase of 80 signs, and up to 250 signs over the next 3 years. The contract will include an option for two more years and additional signs for future expansion. Proposers will be required to integrate with existing systems and to receive real-time vehicle location data and present this information to passengers on the digital display signage. The scope will also include ongoing maintenance and repair as covered by the vendor's warranty. This procurement will be conducted as an RFP, where technical criteria will be evaluated and scored in addition to price. (req. 9587, Kyle Brimley)
 - ***Holiday Employee Gift Cards.*** This is a procurement to purchase holiday gift cards for all UTA employees. It has been a tradition at UTA to give employees a grocery store gift card during the holidays to show appreciation for hard work and accomplishments throughout the year. Through the procurement process UTA typically receives a discount on the gift cards and pays less than the face value of the card. This year the cards will be \$125 each and will be distributed in November to employees. This procurement will be conducted as an IFB where vendor selection will be based solely on price. (Req. 9698)
-

ATTACHMENTS:

N/A



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: William Greene, Chief Financial Officer
PRESENTER(S): William Greene, Chief Financial Officer
Kensley Kunkel, Mgr. Business Dev. And Sales

TITLE:

Fare Contract: Ski Bus Agreement (Alta Ski Lifts Company)

AGENDA ITEM TYPE:

Service or Fare Approval

RECOMMENDATION:

Authorize UTA to enter into a Ski Bus Agreement with Alta Ski Lifts Company

BACKGROUND:

Utah Transit Authority ("UTA") and Alta Ski Lifts Company ("Resort") have a longstanding relationship to promote the sustainability and growth of the Ski Bus Service in the Cottonwood Canyons. For the past 20 plus years, Alta Ski Lifts Company and UTA have contracted together to provide transit service to employees and ski pass holders.

In the most recent ski season, 2020-21, Alta Ski Lifts Company entered into a Ski Bus Agreement with UTA. UTA invoiced the Resort based on the monthly ridership counts using UTA's Electronic Fare Collection ("EFC") ridership counting system. The agreement allows the Resort's authorized users to ride transit service in Big and Little Cottonwood Canyons, as well as routes that connect to Ski Bus. The Resort paid \$4.00 per boarding which was a 20 percent discount of the public ski fare of \$5.00.

This past January, the four (4) Cottonwood Canyon Ski Resorts and UTA formed a working group led by an independent facilitator. The purpose of the group was to explore alternative contract options to meet mutual transit-oriented goals and objectives and address any participating working group member's concerns about entering into an alternative agreement. To achieve this, stakeholder interviews were conducted, and feedback was obtained from the General Managers of each individual Resort, UTA Board Members, and UTA's Executive Director.

Following the interviews and multiple group discussions, the Ski Resorts and UTA came to an agreement on contract options for the upcoming 2021-2022 ski season.

For the 2021-2022 Ski Season, UTA and Alta Ski Lifts Company will enter a ski bus agreement that is billed in two ways based on the authorized user segment: Season Pass Holder and/or Employees:

1. Season Pass Holder

UTA will invoice Alta Ski Lifts Company for transit use by the resort's season pass holders based on a daily rate. In addition, for those authorized users whose cards are authorized for both ski and regular service, the Resort will be billed for each day a rider travels on regular service and does not travel on ski bus. An authorized user's ski season pass will also act as the holder's transit pass for the ski season.

- 20 percent discount off \$10 rate
- Manual billing adjustments
- Valid on services as determined by the ski resorts (ski only, ski and regular)
- Unlimited daily use
- Regular service includes ski bus, local bus, and TRAX
- No weekly cap

Billing will be based on an \$8.00 per day rate with two adjustments as follows:

Adjustment #1 Shuttle

In addition to validated shuttle trips being deducted from the invoice, an additional four percent will be deducted from the total billable days.

Note: The adjustment accounts for riders that might only be using the shuttle. This is based on EFC data from Alta/Snowbird where a rider made one trip, the tap is a resort stop, and the rider failed to tap off or inform the driver that they were traveling between resorts. UTA agrees to split this 50/50 with the resorts considering that many riders are coming up/down the canyon and one trip was not captured in the system.

Example:

Billable Days	1,000
Less 4%	<u>40</u>
Adjusted Billable	960

Adjustment #2 Up/Down

For Alta/Snowbird, 12 percent of the billable days will be billed at \$4.00 and the remaining days at \$8.00. For Brighton/Solitude, seven percent of the billable days will be billed at \$4.00 and the remaining days at \$8.00.

Note: This adjustment is based on APC data up/down totals for the 2020/2021 season.

Example:

Split	12%	88%
	113	847
Rate	<u>\$4</u>	<u>\$8</u>
Total	\$453	\$6,774
Billable Amount	\$7,227	

2. Employees

For the employees of Alta Ski Lifts Company, UTA will invoice the resort based on a daily rate with a cap. Billing will be based on \$8.00 per day and resorts will pay no more than \$28 per week. An authorized user's employee ID will also act as the holder's transit pass for the ski season. Participation by 100% of the Resort employees is required to participate in this agreement.

- 20 percent discount off \$10 rate
- Maximum weekly charge is \$28
- Valid on ski bus, local bus, and TRAX
- Unlimited daily use

DISCUSSION:

Staff recommends that UTA enter into a Ski Bus Agreement with Alta Ski Lifts Company for the 2021-22 Ski Season.

CONTRACT SUMMARY:

Contractor Name:	Alta Ski Lifts Company
Contract Number:	21-F0211
Base Contract Effective Dates:	November 1, 2021- May 31, 2022
New/Total Amount Contract Value:	\$52,000

ALTERNATIVES:

Do not enter an agreement with Alta Ski Lifts Company and renegotiate the contract terms

FISCAL IMPACT:

For the 2021-22 Ski Season, revenue for Alta Ski Lifts Company is estimated to be \$52,000. This estimate was calculated using ridership values from the 2020-21 Ski Season. The revenue may vary based on actual ridership for the upcoming 2021-22 season, however a decrease in revenue compared to 2020-21 is not anticipated.

ATTACHMENTS:

Contract

SKI BUS PASS AGREEMENT

Alta Ski Lifts Company

2021-2022

THIS PASS AGREEMENT is made this 1st day of November 2021, between the **UTAH TRANSIT AUTHORITY**, a public transit district organized under the laws of the State of Utah ("Authority" or "UTA") and **ALTA SKI LIFTS COMPANY**, ("Administrator").

WHEREAS The Authority is a public transit district organized under the provisions of the Utah Public Transit District Act that provides public transportation service along the Wasatch Front, including in Big and Little Cottonwood Canyon, and is authorized by State law to enter contracts; and

WHEREAS Administrator operates a ski resort in Big or Little Cottonwood Canyon, sells season passes to the public, and hires employees to assist in the operation of its ski resort; and

WHEREAS Administrator desires to participate in UTA's Pass program pursuant to the terms and conditions described below.

NOW THEREFORE, Administrator and UTA hereby covenant and agree to be bound by the terms and conditions set forth in this Agreement:

DEFINITIONS

- A. The term "**Authorized User**" means Administrator's employees and season pass holders who have been issued a Pass in compliance with this Agreement.
- B. The term "**Local Service**" means regular fixed route bus, bus rapid transit, Microtransit, Streetcar light rail, and TRAX light rail routes operated by UTA that offer standard public transit service making frequent stops along designated streets, highways, and/or TRAX/Streetcar stations.
- C. The term "**Pass**" means a card issued by Administrator to an Authorized User under the terms of this Agreement for use on UTA's transit system.
- D. The term "**Shuttle Service**" means travel between the ski resorts. Big Cottonwood shuttle means travel between Brighton and Solitude. Little Cottonwood shuttle means travel between Alta and Snowbird.
- E. The term "**Ski Bus Service**" means public transit service in Big and Little Cottonwood Canyons on routes and schedules determined by the Authority.

TERMS AND CONDITIONS

1. **TERM.** This Pass Agreement shall begin on the date stated above and end May 31, 2022.
2. **PASSES.** Administrator shall issue a Pass for use on UTA's transportation services in the form of a unique electronic micro-chip embedded in an electronic fare card media that complies with UTA's requirements to Authorized Users only. Passes are non- transferrable. Administrator agrees to provide UTA educational information to each Authorized User regarding UTA's Electronic Fare Collection ("EFC") Pass Program Guidelines and Rules, particularly the requirement that Authorized Users tap on prior to boarding and tap off upon alighting.
3. **PASS RECOGNIZED AS TRANSIT FARE.** For the term of this agreement, a Pass issued to an Authorized User under this Agreement, when displayed together with valid photo identification upon request, shall be recognized as full fare when the Authorized User has tapped.
4. **PAYMENT FOR PASSES.** Administrator is responsible for paying the full amount owed to UTA, regardless of whether Administrator receives payment for Passes from a third party. Administrator shall pay the amount invoiced by the due dates identified below. UTA shall charge Administrator a one percent (1%) per month late fee on balances due under this Agreement that remain unpaid forty-five (45) days from date of invoice. Payment can be made in the following forms: Check, ACH, and/or Wire Transfer. Checks should be made payable to UTA and mailed to the following address: Utah Transit Authority, Accounts receivable, 669 West 200 South, Salt Lake City, Utah 84101. ACH/WIRE instructions are available upon request.
 - A. **Daily with Adjustments.** UTA shall issue Administrator an invoice for actual Pass usage each month within seven days after the month ends. Administrator agrees to pay \$8.00 for each day the Authorized User travels on UTA Ski Bus Service and Local Service. Administrator agrees to pay \$5 for each day the Authorized User travels on Local Service and does not travel on UTA Ski Bus Service. The billable ski days on the invoice will be reduced by 4% to account for missing shuttle trips. Administrator agrees to pay a reduced rate of \$4.00 for an agreed to number of billable ski days. Administrator may elect to add FrontRunner service to an Authorized User's Pass by submitting a bulk import file. For Passes with FrontRunner service Administrator agrees to pay the public fare rate of those trips in addition to the daily Ski Bus Service or Local Service fare rates. No transfer credits will be applied to the FrontRunner fare.
 - B. **Daily with Weekly Cap.** UTA shall issue Administrator an invoice for actual Pass usage as described in 4A above, not to exceed \$28 per week per Authorized User, each month within seven days after the month ends. The weekly cap excludes FrontRunner fares.
 - i. Fares will be determined by the Authority using UTA's EFC system. Passes that are not identified as Season Pass Holder or Employee will be billed at the daily rate described in Section 4A above.

- C. Shuttle Service. Shuttle service will be excluded from an Administrator's monthly billing when a rider taps on and off when travelling between resorts.
5. **CONFISCATION AND UNAUTHORIZED USE OF PASS.** UTA shall have the right to confiscate a Pass at any time (without notice to the Administrator) from any person who UTA reasonably believes is not an Authorized User or if UTA reasonably believes the Pass has been duplicated, altered, or used in an unauthorized way. UTA will immediately deactivate confiscated Passes and notify the Administrator. If the Pass is an Administrator-provided card, UTA will return it to Administrator.
6. **RECONCILIATION.** UTA maintains the right, upon reasonable notice, to inspect during regular business hours, all Passes always maintained by Administrator during the term of this Agreement and for a period of one year after the expiration or termination of this Agreement. Administrator shall cooperate with and permit UTA to examine the unissued Passes distributed to Administrator and the Passes sold and to inspect and reconcile all records and accounts pertaining to this agreement monthly
7. **REPORTING**
- A. Partner Website. The Authority agrees to provide the following information to Administrator through www.tap2rideuta.com, which may be accessed at any time: (1) Ridership- parameters include a date range with trip counts by Pass number or service type; (2) Active Passes- a count of total active passes; (3) Pass Summary- the current status of each Pass, the Pass number, and property field to the extent completed by Administrator; and (4) Action History- a summary of all changes made to Passes. Administrator may access this information at www.tap2rideuta.com by selecting "reports."
- B. Ridership Data. Each monthly billing cycle, UTA agrees to provide Administrator with a report of its' Authorized Users' daily usage on Ski Bus Service during the preceding month.
- C. Additional Ridership Data. Subject to Utah Code 17B-2a-815(3)(a), which limits the type of ridership data UTA may disclose to third party administrators, the Authority will provide additional Authorized User ridership data to Administrator upon request. Requests for additional ridership data must be emailed to passprograms@rideuta.com.
- D. Administrator Data. Administrator agrees to identify the type of each Pass issued in the property fields on the UTA Third Party Partner Website or the bulk import spreadsheet (employee or season pass-holder). UTA encourages Administrator to provide additional information in the property fields of the UTA Partner Website or bulk import spreadsheet so that the parties can obtain more comprehensive ridership data in connection with the Ski Bus Service.

- E. Monthly Reporting. The Authority will provide Administrator with a monthly report summarizing key information agreed upon by the resorts and UTA in advance. UTA can also provide Administrator with a breakdown of EFC Pass holder usage only if Administrator provides Pass holder information through bulk import.
8. TERMINATION OF AGREEMENT. This Agreement may be terminated with or without cause by either party by providing thirty (30) days advance written notice of termination. In the event the Agreement is terminated after UTA begins Service, the amount owed under this Agreement shall be prorated based on the number of days UTA provided the Service.
9. THIRD PARTY INTERESTS. No person not a party to this Agreement shall have any rights or entitlements of any nature under it.
10. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto for the term stated and cannot be modified except by written agreement signed by both parties. Neither party shall be bound by any oral agreement or special arrangements contrary to or in addition to the terms and condition as stated herein.
11. COSTS AND ATTORNEY’S FEES. If either party pursues legal action to enforce any covenant of this Agreement, the parties agree that all costs and expenses of the prevailing party incident to such legal action, including reasonable attorneys’ fees and court costs shall be paid by the non-prevailing party.
12. NOTICES. Except as otherwise indicated, notices to be given hereunder shall be sufficient if given in writing in person or by personal delivery, U.S. mail, or electronic mail. Notices shall be deemed effective and complete at the time of receipt, provided that the refusal to accept delivery shall be construed as receipt for purposes of this Agreement.

If to:

Administrator:	_____	Utah Transit Authority:
Name:	_____	Kensey Kunkel
Address:	_____	669 West 200 South
	_____	Salt Lake City, Utah 84101
Phone:	_____	801-741-8806
Email:	_____	kkunkel@rideuta.com

Either party may change the address at which such party desires to receive written notice by giving written notice of such change to the other party. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed, provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

13. **INTENT TO BE LEGALLY BOUND.** The undersigned parties have duly caused this Agreement to be executed and any individual signatories executing on behalf of a governmental entity, corporation or limited liability company are duly authorized by his or her respective governmental entity, corporation, or limited liability company employer to execute this Agreement.
14. **NON-DISCRIMINATION.** Administrator agrees that it shall not exclude any individual from participation in or deny any individual the benefits of this Agreement, based on race, color, national origin, creed, sex, or age in accordance with the requirements of 49 U.S.C. 5332.
15. **DEFAULT.** In the event that either party fails to perform any of the terms and conditions required to be performed pursuant to this Agreement, and upon fifteen (15) days' notice of such failure to perform, the non-defaulting party under this agreement may terminate this Agreement. In the event that Administrator fails to pay UTA, Administrator shall be liable for not only amounts due under this Agreement, but also collection costs including court costs and reasonable attorney's fees.
16. **SUCCESSORS AND ASSIGNS.** This agreement shall not be assigned without the written consent of the other party. This agreement with all its terms and provision shall be binding and inure to the benefit of any permitted successors and assigns of the parties hereto.
17. **AMENDMENTS.** This Agreement may not be modified or terminated orally, and no claimed modification, rescission or waiver shall be binding upon either party unless in writing signed by a duly authorized representative of each party.
18. **INDEMNIFICATION.** The parties mutually agreed to indemnify, defend, and hold harmless the other party, its directors, officers, agents, and employees against all claims, actions, debts or loss to the extent arising from a breach of a covenant, or other breach or default by the indemnifying party under this Agreement. The Parties recognize and acknowledge that UTA is a public or governmental agency or entity covered under the provisions of the Utah Governmental Immunity Act as set forth in Sections 63-30-1 to 63-30-38, Utah Code Annotated 1953, as amended, and the limits of liability therein described. UTA does not waive any legal defense or benefit available to it under applicable law. Both parties agree to cooperate in good faith in resolving any disputes that may arise under this Agreement.
19. **GOVERNING LAW.** This Agreement and all transactions contemplated hereunder and/or evidenced hereby shall be governed by and construed under and enforced in accordance with the laws of the State of Utah without giving effect to any choice of law or conflict of law rules or provisions.
20. **WAIVER.** The waiver by either party of any of the covenants as contained in this Agreement shall not be deemed a waiver of such party's rights to enforce the same or any other covenant herein, and the rights and remedies of the parties hereunder shall be in addition to, and not in lieu of, any right or remedy as provided by law.

21. **NO PRECEDENT.** Both Parties acknowledge that this agreement is applicable only until the contract Term date as stated in section 1, above, and that a new agreement including new terms and conditions will need to be negotiated for future ski resort service. This agreement does not set a precedent for those future agreements.

In WITNESS WHEREOF, the undersigned parties have executed this Agreement the date and year above written.

ALTA SKI LIFTS COMPANY

By:

Signature

Date _____

Print Name: _____

Print Title

Approved As To Form: _____

Mike Bell

70E33A415BA44F6

UTA Legal Counsel

UTAH TRANSIT AUTHORITY

By:

Signature

Date _____

Print Name: _____

Print Title:

By:

Signature

Date _____

Print Name: _____

Print Title:

EXHIBIT A

Pass Program Account Setup

Section 1: Partner Information

Administrator: _____

Address: _____

City, State, Zip: _____

Section 2: Contact Information

Contact Name: _____

Title: _____

Phone: _____

Email: _____

Section 3: Designated Transit Coordinator *(For additional Coordinator, please submit names and email addresses to efcoperations@rideuta.com)*

Contact Name: _____

Title: _____

Phone: _____

Email: _____

Section 4: Billing Information

Accounts Payable Contact: _____

Title: _____

Phone: _____

Email: _____

Method (Check One)		Email or Mailing Address
Email <input type="checkbox"/>	Mail <input type="checkbox"/>	

Payment Type (Check One)		
ACH <input type="checkbox"/>	Wire <input type="checkbox"/>	Check <input type="checkbox"/>

*ACH/WIRE Instructions are available upon request

Section 5: Programs and Pricing

X Daily with Adjustments

Description: Monthly payment required from employer to UTA, invoiced at the end of each month and based on daily usage, see section 5A for additional details.

Please indicate below the authorized user group or groups that will be participating in the program:

X Season Pass Holders

☐ Employees

X Daily with Weekly Cap

Description: Monthly payment required from employer to UTA, invoiced at the end of each month and based on daily usage not to exceed a weekly cap of \$28 per week per authorized user, see section 5B for additional details. Requires 100% participation by season pass holders and/or 100% participation by employees.

Please indicate below the authorized user group or groups that will be participating in the program:

☐ Season Pass Holders

X Employees



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: William Greene, Chief Financial Officer
PRESENTER(S): William Greene, Chief Financial Officer
Kensley Kunkel, Mgr. Business Dev. and Sales

TITLE:

Fare Contract: Ski Bus Agreement (Brighton Ski Resort)

AGENDA ITEM TYPE:

Service or Fare Approval

RECOMMENDATION:

Authorize UTA to enter into a Ski Bus Agreement with Brighton Ski Resort

BACKGROUND:

Utah Transit Authority ("UTA") and Brighton Ski Resort ("Resort") have a longstanding relationship to promote the sustainability and growth of the Ski Bus Service in the Cottonwood Canyons. For the past 20 plus years, Brighton Ski Resort and UTA have contracted together to provide transit service to employees and ski pass holders.

In the most recent ski season, 2020-21, Brighton Ski Resort entered into a Ski Bus Agreement with UTA. UTA invoiced the Resort based on the monthly ridership counts using UTA's Electronic Fare Collection ("EFC") ridership counting system. The agreement allows the Resort's authorized users to ride transit service in Big and Little Cottonwood Canyons, as well as routes that connect to Ski Bus. The Resort paid \$4.00 per boarding which was a 20 percent discount of the public ski fare of \$5.00.

This past January, the four (4) Cottonwood Canyon Ski Resorts and UTA formed a working group led by an independent facilitator. The purpose of the group was to explore alternative contract options to meet mutual transit-oriented goals and objectives and address any participating working group member's concerns about entering into an alternative agreement. To achieve this, stakeholder interviews were conducted, and feedback was obtained from the General Managers of each individual Resort, UTA Board Members, and UTA's Executive Director.

Following the interviews and multiple group discussions, the Ski Resorts and UTA came to an agreement on

contract options for the upcoming 2021-2022 ski season.

For the 2021-2022 Ski Season, UTA and Brighton Ski Resort will enter a ski bus agreement that is billed in two ways based on the authorized user segment: Season Pass Holder and/or Employees:

1. Season Pass Holder

UTA will invoice Brighton Ski Resort for transit use by the resort's season pass holders based on a daily rate. In addition, for those authorized users whose cards are authorized for both ski and regular service, the Resort will be billed for each day a rider travels on regular service and does not travel on ski bus. An authorized user's ski season pass will also act as the holder's transit pass for the ski season.

- 20 percent discount off \$10 rate
- Manual billing adjustments
- Valid on services as determined by the ski resorts (ski only, ski and regular)
- Unlimited daily use
- Regular service includes ski bus, local bus, and TRAX
- No weekly cap

Billing will be based on an \$8.00 per day rate with two adjustments as follows:

Adjustment #1 Shuttle

In addition to validated shuttle trips being deducted from the invoice, an additional four percent will be deducted from the total billable days.

Note: The adjustment accounts for riders that might only be using the shuttle. This is based on EFC data from Alta/Snowbird where a rider made one trip, the tap is a resort stop, and the rider failed to tap off or inform the driver that they were traveling between resorts. UTA agrees to split this 50/50 with the resorts considering that many riders are coming up/down the canyon and one trip was not captured in the system.

Example:

Billable Days	1,000
Less 4%	<u>40</u>
Adjusted Billable	960

Adjustment #2 Up/Down

For Alta/Snowbird, 12 percent of the billable days will be billed at \$4.00 and the remaining days at \$8.00. For Brighton/Solitude, seven percent of the billable days will be billed at \$4.00 and the remaining days at \$8.00.

Note: This adjustment is based on APC data up/down totals for the 2020/2021 season.

Example:

Split	12%	88%
	113	847
Rate	<u>\$4</u>	<u>\$8</u>
Total	\$453	\$6,774
Billable Amount	\$7,227	

2. Employees

For the employees of Brighton Ski Resort, UTA will invoice the resort based on a daily rate with a cap. Billing will be based on \$8.00 per day and resorts will pay no more than \$28 per week. An authorized user's employee ID will also act as the holder's transit pass for the ski season. Participation by 100% of the Resort employees is required to participate in this agreement.

- 20 percent discount off \$10 rate
- Maximum weekly charge is \$28
- Valid on ski bus, local bus, and TRAX
- Unlimited daily use

DISCUSSION:

Staff recommends that UTA enter into a Ski Bus Agreement with Brighton Ski Resort for the 2021-22 Ski Season.

CONTRACT SUMMARY:

Contractor Name:	Brighton Ski Resort
Contract Number:	21-F0214
Base Contract Effective Dates:	November 1, 2021-May 31, 2022
New/Total Amount Contract Value:	\$95,800

ALTERNATIVES:

Do not enter an agreement with Brighton Ski Resort and renegotiate the contract terms

FISCAL IMPACT:

For the 2021-22 Ski Season, revenue for Brighton Ski Resort is estimated to be \$95,800. This estimate was calculated using ridership values from the 2020-21 Ski Season. The revenue may vary based on actual ridership for the upcoming 2021-22 season, however a decrease in revenue compared to 2020-21 is not anticipated.

ATTACHMENTS:

Contract

SKI BUS PASS AGREEMENT

Brighton Ski Resort

2021-2022

THIS PASS AGREEMENT is made this 1st day of November 2021, between the **UTAH TRANSIT AUTHORITY**, a public transit district organized under the laws of the State of Utah ("Authority" or "UTA") and **BRIGHTON SKI RESORT**, ("Administrator").

WHEREAS The Authority is a public transit district organized under the provisions of the Utah Public Transit District Act that provides public transportation service along the Wasatch Front, including in Big and Little Cottonwood Canyon, and is authorized by State law to enter contracts; and

WHEREAS Administrator operates a ski resort in Big or Little Cottonwood Canyon, sells season passes to the public, and hires employees to assist in the operation of its ski resort; and

WHEREAS Administrator desires to participate in UTA's Pass program pursuant to the terms and conditions described below.

NOW THEREFORE, Administrator and UTA hereby covenant and agree to be bound by the terms and conditions set forth in this Agreement:

DEFINITIONS

- A. The term "**Authorized User**" means Administrator's employees and season pass holders who have been issued a Pass in compliance with this Agreement.
- B. The term "**Local Service**" means regular fixed route bus, bus rapid transit, Microtransit, Streetcar light rail, and TRAX light rail routes operated by UTA that offer standard public transit service making frequent stops along designated streets, highways, and/or TRAX/Streetcar stations.
- C. The term "**Pass**" means a card issued by Administrator to an Authorized User under the terms of this Agreement for use on UTA's transit system.
- D. The term "**Shuttle Service**" means travel between the ski resorts. Big Cottonwood shuttle means travel between Brighton and Solitude. Little Cottonwood shuttle means travel between Alta and Snowbird.
- E. The term "**Ski Bus Service**" means public transit service in Big and Little Cottonwood Canyons on routes and schedules determined by the Authority.

TERMS AND CONDITIONS

1. **TERM.** This Pass Agreement shall begin on the date stated above and end May 31, 2022.
2. **PASSES.** Administrator shall issue a Pass for use on UTA's transportation services in the form of a unique electronic micro-chip embedded in an electronic fare card media that complies with UTA's requirements to Authorized Users only. Passes are non- transferrable. Administrator agrees to provide UTA educational information to each Authorized User regarding UTA's Electronic Fare Collection ("EFC") Pass Program Guidelines and Rules, particularly the requirement that Authorized Users tap on prior to boarding and tap off upon alighting.
3. **PASS RECOGNIZED AS TRANSIT FARE.** For the term of this agreement, a Pass issued to an Authorized User under this Agreement, when displayed together with valid photo identification upon request, shall be recognized as full fare when the Authorized User has tapped.
4. **PAYMENT FOR PASSES.** Administrator is responsible for paying the full amount owed to UTA, regardless of whether Administrator receives payment for Passes from a third party. Administrator shall pay the amount invoiced by the due dates identified below. UTA shall charge Administrator a one percent (1%) per month late fee on balances due under this Agreement that remain unpaid forty-five (45) days from date of invoice. Payment can be made in the following forms: Check, ACH, and/or Wire Transfer. Checks should be made payable to UTA and mailed to the following address: Utah Transit Authority, Accounts receivable, 669 West 200 South, Salt Lake City, Utah 84101. ACH/WIRE instructions are available upon request.
 - A. **Daily with Adjustments.** UTA shall issue Administrator an invoice for actual Pass usage each month within seven days after the month ends. Administrator agrees to pay \$8.00 for each day the Authorized User travels on UTA Ski Bus Service and Local Service. Administrator agrees to pay \$5 for each day the Authorized User travels on Local Service and does not travel on UTA Ski Bus Service. The billable ski days on the invoice will be reduced by 4% to account for missing shuttle trips. Administrator agrees to pay a reduced rate of \$4.00 for an agreed upon # of billable ski days. Administrator may elect to add FrontRunner service to an Authorized User's Pass by submitting a bulk import file. For Passes with FrontRunner service Administrator agrees to pay the public fare rate of those trips in addition to the daily Ski Bus Service or Local Service fare rates. No transfer credits will be applied to the FrontRunner fare.
 - B. **Daily with Weekly Cap.** UTA shall issue Administrator an invoice for actual Pass usage as described in 4A above, not to exceed \$28 per week per Authorized User, each month within seven days after the month ends. The weekly cap excludes FrontRunner fares.
 - i. Fares will be determined by the Authority using UTA's EFC system. Passes that are not identified as Season Pass Holder or Employee will be billed at the daily rate described in Section 4A above.

- C. Shuttle Service. Shuttle service will be excluded from an Administrator's monthly billing when a rider taps on and off when travelling between resorts.
5. **CONFISCATION AND UNAUTHORIZED USE OF PASS.** UTA shall have the right to confiscate a Pass at any time (without notice to the Administrator) from any person who UTA reasonably believes is not an Authorized User or if UTA reasonably believes the Pass has been duplicated, altered, or used in an unauthorized way. UTA will immediately deactivate confiscated Passes and notify the Administrator. If the Pass is an Administrator-provided card, UTA will return it to Administrator.
6. **RECONCILIATION.** UTA maintains the right, upon reasonable notice, to inspect during regular business hours, all Passes always maintained by Administrator during the term of this Agreement and for a period of one year after the expiration or termination of this Agreement. Administrator shall cooperate with and permit UTA to examine the unissued Passes distributed to Administrator and the Passes sold and to inspect and reconcile all records and accounts pertaining to this agreement monthly
7. **REPORTING**
- A. Partner Website. The Authority agrees to provide the following information to Administrator through www.tap2rideuta.com, which may be accessed at any time: (1) Ridership- parameters include a date range with trip counts by Pass number or service type; (2) Active Passes- a count of total active passes; (3) Pass Summary- the current status of each Pass, the Pass number, and property field to the extent completed by Administrator; and (4) Action History- a summary of all changes made to Passes. Administrator may access this information at www.tap2rideuta.com by selecting "reports."
- B. Ridership Data. Each monthly billing cycle, UTA agrees to provide Administrator with a report of its' Authorized Users' daily usage on Ski Bus Service during the preceding month.
- C. Additional Ridership Data. Subject to Utah Code 17B-2a-815(3)(a), which limits the type of ridership data UTA may disclose to third party administrators, the Authority will provide additional Authorized User ridership data to Administrator upon request. Requests for additional ridership data must be emailed to passprograms@rideuta.com.
- D. Administrator Data. Administrator agrees to identify the type of each Pass issued in the property fields on the UTA Third Party Partner Website or the bulk import spreadsheet (employee or season pass-holder). UTA encourages Administrator to provide additional information in the property fields of the UTA Partner Website or bulk import spreadsheet so that the parties can obtain more comprehensive ridership data in connection with the Ski Bus Service.

- E. Monthly Reporting. The Authority will provide Administrator with a monthly report summarizing key information agreed upon by the resorts and UTA in advance. UTA can also provide Administrator with a breakdown of EFC Pass holder usage only if Administrator provides Pass holder information through bulk import.
8. TERMINATION OF AGREEMENT. This Agreement may be terminated with or without cause by either party by providing thirty (30) days advance written notice of termination. In the event the Agreement is terminated after UTA begins Service, the amount owed under this Agreement shall be prorated based on the number of days UTA provided the Service.
9. THIRD PARTY INTERESTS. No person not a party to this Agreement shall have any rights or entitlements of any nature under it.
10. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto for the term stated and cannot be modified except by written agreement signed by both parties. Neither party shall be bound by any oral agreement or special arrangements contrary to or in addition to the terms and condition as stated herein.
11. COSTS AND ATTORNEY’S FEES. If either party pursues legal action to enforce any covenant of this Agreement, the parties agree that all costs and expenses of the prevailing party incident to such legal action, including reasonable attorneys’ fees and court costs shall be paid by the non-prevailing party.
12. NOTICES. Except as otherwise indicated, notices to be given hereunder shall be sufficient if given in writing in person or by personal delivery, U.S. mail, or electronic mail. Notices shall be deemed effective and complete at the time of receipt, provided that the refusal to accept delivery shall be construed as receipt for purposes of this Agreement.

If to:

Administrator:	Brighton Ski Resort	Utah Transit Authority:
Name:	Randy Doyle	Kensy Kunkel
Address:	8302 South Brighton Loop Road	669 West 200 South
	Brighton, Utah 84121	Salt Lake City, Utah 84101
Phone:	801-532-4731	801-741-8806
Email:	rdoyle@brightonresort.com	kkunkel@rideuta.com

Either party may change the address at which such party desires to receive written notice by giving written notice of such change to the other party. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed, provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

13. **INTENT TO BE LEGALLY BOUND.** The undersigned parties have duly caused this Agreement to be executed and any individual signatories executing on behalf of a governmental entity, corporation or limited liability company are duly authorized by his or her respective governmental entity, corporation, or limited liability company employer to execute this Agreement.
14. **NON-DISCRIMINATION.** Administrator agrees that it shall not exclude any individual from participation in or deny any individual the benefits of this Agreement, based on race, color, national origin, creed, sex, or age in accordance with the requirements of 49 U.S.C. 5332.
15. **DEFAULT.** In the event that either party fails to perform any of the terms and conditions required to be performed pursuant to this Agreement, and upon fifteen (15) days' notice of such failure to perform, the non-defaulting party under this agreement may terminate this Agreement. In the event that Administrator fails to pay UTA, Administrator shall be liable for not only amounts due under this Agreement, but also collection costs including court costs and reasonable attorney's fees.
16. **SUCCESSORS AND ASSIGNS.** This agreement shall not be assigned without the written consent of the other party. This agreement with all its terms and provision shall be binding and inure to the benefit of any permitted successors and assigns of the parties hereto.
17. **AMENDMENTS.** This Agreement may not be modified or terminated orally, and no claimed modification, rescission or waiver shall be binding upon either party unless in writing signed by a duly authorized representative of each party.
18. **INDEMNIFICATION.** The parties mutually agreed to indemnify, defend, and hold harmless the other party, its directors, officers, agents, and employees against all claims, actions, debts or loss to the extent arising from a breach of a covenant, or other breach or default by the indemnifying party under this Agreement. The Parties recognize and acknowledge that UTA is a public or governmental agency or entity covered under the provisions of the Utah Governmental Immunity Act as set forth in Sections 63-30-1 to 63-30-38, Utah Code Annotated 1953, as amended, and the limits of liability therein described. UTA does not waive any legal defense or benefit available to it under applicable law. Both parties agree to cooperate in good faith in resolving any disputes that may arise under this Agreement.
19. **GOVERNING LAW.** This Agreement and all transactions contemplated hereunder and/or evidenced hereby shall be governed by and construed under and enforced in accordance with the laws of the State of Utah without giving effect to any choice of law or conflict of law rules or provisions.
20. **WAIVER.** The waiver by either party of any of the covenants as contained in this Agreement shall not be deemed a waiver of such party's rights to enforce the same or any other covenant herein, and the rights and remedies of the parties hereunder shall be in addition to, and not in lieu of, any right or remedy as provided by law.
21. **NO PRECEDENT.** Both Parties acknowledge that this agreement is applicable only until the

contract Term date as stated in section 1, above, and that a new agreement including new terms and conditions will need to be negotiated for future ski resort service. This agreement does not set a precedent for those future agreements.

In WITNESS WHEREOF, the undersigned parties have executed this Agreement the date and year above written.

BRIGHTON RESORT

By:

Signature

Date _____

Print Name: _____

Print Title

Approved As To Form:

Mike Bell

70E33A415BA44E6

UTA Legal Counsel

UTAH TRANSIT AUTHORITY

By:

Signature

Date _____

Print Name: _____

Print Title:

By:

Signature

Date _____

Print Name: _____

Print Title:

EXHIBIT A

Pass Program Account Setup

Section 1: Partner Information

Administrator: _____

Address: _____

City, State, Zip: _____

Section 2: Contact Information

Contact Name: _____

Title: _____

Phone: _____

Email: _____

Section 3: Designated Transit Coordinator *(For additional Coordinator, please submit names and email addresses to efcoperations@rideuta.com)*

Contact Name: _____

Title: _____

Phone: _____

Email: _____

Section 4: Billing Information

Accounts Payable Contact: _____

Title: _____

Phone: _____

Email: _____

Method (Check One)		Email or Mailing Address
Email <input type="checkbox"/>	Mail <input type="checkbox"/>	

Payment Type (Check One)		
ACH <input type="checkbox"/>	Wire <input type="checkbox"/>	Check <input type="checkbox"/>

*ACH/WIRE Instructions are available upon request

Section 5: Programs and Pricing

X Daily with Adjustments

Description: Monthly payment required from employer to UTA, invoiced at the end of each month and based on daily usage, see section 5A for additional details.

Please indicate below the authorized user group or groups that will be participating in the program:

X Season Pass Holders

☐ Employees

X Daily with Weekly Cap

Description: Monthly payment required from employer to UTA, invoiced at the end of each month and based on daily usage not to exceed a weekly cap of \$28 per week per authorized user, see section 5B for additional details. Requires 100% participation by season pass holders and/or 100% participation by employees.

Please indicate below the authorized user group or groups that will be participating in the program:

☐ Season Pass Holders

X Employees



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: William Greene, Chief Financial Officer
PRESENTER(S): William Greene, Chief Financial Officer
Kensley Kunkel, Mgr. Business Dev. And Sales

TITLE:

Fare Contract: Ski Bus Agreement (Snowbird Ski Resort, LLC)

AGENDA ITEM TYPE:

Service or Fare Approval

RECOMMENDATION:

Authorize UTA to enter into a Ski Bus Agreement with Snowbird Ski Resort, LLC

BACKGROUND:

Utah Transit Authority ("UTA") and Snowbird Ski Resort, LLC ("Resort") have a longstanding relationship to promote the sustainability and growth of the Ski Bus Service in the Cottonwood Canyons. For the past 20 plus years, Snowbird Ski Resort, LLC and UTA have contracted together to provide transit service to employees and ski pass holders.

In the most recent ski season, 2020-21, Snowbird Ski Resort, LLC entered into a Ski Bus Agreement with UTA. UTA invoiced the Resort based on the monthly ridership counts using UTA's Electronic Fare Collection ("EFC") ridership counting system. The agreement allows the Resort's authorized users to ride transit service in Big and Little Cottonwood Canyons, as well as routes that connect to Ski Bus. The Resort paid \$4.00 per boarding which was a 20 percent discount of the public ski fare of \$5.00.

This past January, the four (4) Cottonwood Canyon Ski Resorts and UTA formed a working group led by an independent facilitator. The purpose of the group was to explore alternative contract options to meet mutual transit-oriented goals and objectives and address any participating working group member's concerns about entering into an alternative agreement. To achieve this, stakeholder interviews were conducted, and feedback was obtained from the General Managers of each individual Resort, UTA Board Members, and UTA's Executive Director.

Following the interviews and multiple group discussions, the Ski Resorts and UTA came to an agreement on

contract options for the upcoming 2021-2022 ski season.

For the 2021-2022 Ski Season, UTA and Snowbird Ski Resort, LLC will enter a ski bus agreement that is billed in two ways based on the authorized user segment: Season Pass Holder and/or Employees:

1. Season Pass Holder

UTA will invoice Snowbird Ski Resort, LLC for transit use by the resort's season pass holders based on a daily rate. In addition, for those authorized users whose cards are authorized for both ski and regular service, the Resort will be billed for each day a rider travels on regular service and does not travel on ski bus. An authorized user's ski season pass will also act as the holder's transit pass for the ski season.

- 20 percent discount off \$10 rate
- Manual billing adjustments
- Valid on services as determined by the ski resorts (ski only, ski and regular)
- Unlimited daily use
- Regular service includes ski bus, local bus, and TRAX
- No weekly cap

Billing will be based on an \$8.00 per day rate with two adjustments as follows:

Adjustment #1 Shuttle

In addition to validated shuttle trips being deducted from the invoice, an additional four percent will be deducted from the total billable days.

Note: The adjustment accounts for riders that might only be using the shuttle. This is based on EFC data from Alta/Snowbird where a rider made one trip, the tap is a resort stop, and the rider failed to tap off or inform the driver that they were traveling between resorts. UTA agrees to split this 50/50 with the resorts considering that many riders are coming up/down the canyon and one trip was not captured in the system.

Example:

Billable Days	1,000
Less 4%	<u>40</u>
Adjusted Billable	960

Adjustment #2 Up/Down

For Alta/Snowbird, 12 percent of the billable days will be billed at \$4.00 and the remaining days at \$8.00. For Brighton/Solitude, seven percent of the billable days will be billed at \$4.00 and the remaining days at \$8.00.

Note: This adjustment is based on APC data up/down totals for the 2020/2021 season.

Example:

Split	12%	88%
	113	847
Rate	<u>\$4</u>	<u>\$8</u>
Total	\$453	\$6,774
Billable Amount	\$7,227	

2. Employees

For the employees of Snowbird Ski Resort, LLC, UTA will invoice the resort based on a daily rate with a cap. Billing will be based on \$8.00 per day and resorts will pay no more than \$28 per week. An authorized user's employee ID will also act as the holder's transit pass for the ski season. Participation by 100% of the Resort employees is required to participate in this agreement.

- 20 percent discount off \$10 rate
- Maximum weekly charge is \$28
- Valid on ski bus, local bus, and TRAX
- Unlimited daily use

DISCUSSION:

Staff recommends that UTA enter into a Ski Bus Agreement with Snowbird Ski Resort, LLC for the 2021-22 Ski Season.

CONTRACT SUMMARY:

Contractor Name:	Snowbird Ski Resort, LLC
Contract Number:	21-F0212
Base Contract Effective Dates:	November 1, 2021-May 31, 2022
New/Total Amount Contract Value:	\$167,800

ALTERNATIVES:

Do not enter an agreement with Snowbird Ski Resort, LLC and renegotiate the contract terms

FISCAL IMPACT:

For the 2021-22 Ski Season, revenue for Snowbird Ski Resort, LLC is estimated to be \$167,800. This estimate was calculated using ridership values from the 2020-21 Ski Season. The revenue may vary based on actual ridership for the upcoming 2021-22 season, however a decrease in revenue compared to 2020-21 is not anticipated.

ATTACHMENTS:

Contract

SKI BUS PASS AGREEMENT

Snowbird Ski Resort, LLC

2021-2022

THIS PASS AGREEMENT is made this 1st day of November 2021, between the **UTAH TRANSIT AUTHORITY**, a public transit district organized under the laws of the State of Utah ("Authority" or "UTA") and **SNOWBIRD SKI RESORT, LLC**, ("Administrator").

WHEREAS The Authority is a public transit district organized under the provisions of the Utah Public Transit District Act that provides public transportation service along the Wasatch Front, including in Big and Little Cottonwood Canyon, and is authorized by State law to enter contracts; and

WHEREAS Administrator operates a ski resort in Big or Little Cottonwood Canyon, sells season passes to the public, and hires employees to assist in the operation of its ski resort; and

WHEREAS Administrator desires to participate in UTA's Pass program pursuant to the terms and conditions described below.

NOW THEREFORE, Administrator and UTA hereby covenant and agree to be bound by the terms and conditions set forth in this Agreement:

DEFINITIONS

- A. The term "**Authorized User**" means Administrator's employees and season pass holders who have been issued a Pass in compliance with this Agreement.
- B. The term "**Local Service**" means regular fixed route bus, bus rapid transit, Microtransit, Streetcar light rail, and TRAX light rail routes operated by UTA that offer standard public transit service making frequent stops along designated streets, highways, and/or TRAX/Streetcar stations.
- C. The term "**Pass**" means a card issued by Administrator to an Authorized User under the terms of this Agreement for use on UTA's transit system.
- D. The term "**Shuttle Service**" means travel between the ski resorts. Big Cottonwood shuttle means travel between Brighton and Solitude. Little Cottonwood shuttle means travel between Alta and Snowbird.
- E. The term "**Ski Bus Service**" means public transit service in Big and Little Cottonwood Canyons on routes and schedules determined by the Authority.

TERMS AND CONDITIONS

1. **TERM.** This Pass Agreement shall begin on the date stated above and end May 31, 2022.
2. **PASSES.** Administrator shall issue a Pass for use on UTA's transportation services in the form of a unique electronic micro-chip embedded in an electronic fare card media that complies with UTA's requirements to Authorized Users only. Passes are non- transferrable. Administrator agrees to provide UTA educational information to each Authorized User regarding UTA's Electronic Fare Collection ("EFC") Pass Program Guidelines and Rules, particularly the requirement that Authorized Users tap on prior to boarding and tap off upon alighting.
3. **PASS RECOGNIZED AS TRANSIT FARE.** For the term of this agreement, a Pass issued to an Authorized User under this Agreement, when displayed together with valid photo identification upon request, shall be recognized as full fare when the Authorized User has tapped.
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 - A. **Daily with Adjustments.** UTA shall issue Administrator an invoice for actual Pass usage each month within seven days after the month ends. Administrator agrees to pay \$8.00 for each day the Authorized User travels on UTA Ski Bus Service and Local Service. Administrator agrees to pay \$5 for each day the Authorized User travels on Local Service and does not travel on UTA Ski Bus Service. The billable ski days on the invoice will be reduced by 4% to account for missing shuttle trips. Administrator agrees to pay a reduced rate of \$4.00 for an agreed to number of billable ski days. Administrator may elect to add FrontRunner service to an Authorized User's Pass by submitting a bulk import file. For Passes with FrontRunner service Administrator agrees to pay the public fare rate of those trips in addition to the daily Ski Bus Service or Local Service fare rates. No transfer credits will be applied to the FrontRunner fare.
 - B. **Daily with Weekly Cap.** UTA shall issue Administrator an invoice for actual Pass usage as described in 4A above, not to exceed \$28 per week per Authorized User, each month within seven days after the month ends. The weekly cap excludes FrontRunner fares.
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- A. Partner Website. The Authority agrees to provide the following information to Administrator through www.tap2rideuta.com, which may be accessed at any time: (1) Ridership- parameters include a date range with trip counts by Pass number or service type; (2) Active Passes- a count of total active passes; (3) Pass Summary- the current status of each Pass, the Pass number, and property field to the extent completed by Administrator; and (4) Action History- a summary of all changes made to Passes. Administrator may access this information at www.tap2rideuta.com by selecting "reports."
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8. TERMINATION OF AGREEMENT. This Agreement may be terminated with or without cause by either party by providing thirty (30) days advance written notice of termination. In the event the Agreement is terminated after UTA begins Service, the amount owed under this Agreement shall be prorated based on the number of days UTA provided the Service.
9. THIRD PARTY INTERESTS. No person not a party to this Agreement shall have any rights or entitlements of any nature under it.
10. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto for the term stated and cannot be modified except by written agreement signed by both parties. Neither party shall be bound by any oral agreement or special arrangements contrary to or in addition to the terms and condition as stated herein.
11. COSTS AND ATTORNEY’S FEES. If either party pursues legal action to enforce any covenant of this Agreement, the parties agree that all costs and expenses of the prevailing party incident to such legal action, including reasonable attorneys’ fees and court costs shall be paid by the non-prevailing party.
12. NOTICES. Except as otherwise indicated, notices to be given hereunder shall be sufficient if given in writing in person or by personal delivery, U.S. mail, or electronic mail. Notices shall be deemed effective and complete at the time of receipt, provided that the refusal to accept delivery shall be construed as receipt for purposes of this Agreement.

If to:

Administrator:	_____	Utah Transit Authority:
Name:	_____	Kensey Kunkel
Address:	_____	669 West 200 South
	_____	Salt Lake City, Utah 84101
Phone:	_____	801-741-8806
Email:	_____	kkunkel@rideuta.com

Either party may change the address at which such party desires to receive written notice by giving written notice of such change to the other party. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed, provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

13. **INTENT TO BE LEGALLY BOUND.** The undersigned parties have duly caused this Agreement to be executed and any individual signatories executing on behalf of a governmental entity, corporation or limited liability company are duly authorized by his or her respective governmental entity, corporation, or limited liability company employer to execute this Agreement.
14. **NON-DISCRIMINATION.** Administrator agrees that it shall not exclude any individual from participation in or deny any individual the benefits of this Agreement, based on race, color, national origin, creed, sex, or age in accordance with the requirements of 49 U.S.C. 5332.
15. **DEFAULT.** In the event that either party fails to perform any of the terms and conditions required to be performed pursuant to this Agreement, and upon fifteen (15) days' notice of such failure to perform, the non-defaulting party under this agreement may terminate this Agreement. In the event that Administrator fails to pay UTA, Administrator shall be liable for not only amounts due under this Agreement, but also collection costs including court costs and reasonable attorney's fees.
16. **SUCCESSORS AND ASSIGNS.** This agreement shall not be assigned without the written consent of the other party. This agreement with all its terms and provision shall be binding and inure to the benefit of any permitted successors and assigns of the parties hereto.
17. **AMENDMENTS.** This Agreement may not be modified or terminated orally, and no claimed modification, rescission or waiver shall be binding upon either party unless in writing signed by a duly authorized representative of each party.
18. **INDEMNIFICATION.** The parties mutually agreed to indemnify, defend, and hold harmless the other party, its directors, officers, agents, and employees against all claims, actions, debts or loss to the extent arising from a breach of a covenant, or other breach or default by the indemnifying party under this Agreement. The Parties recognize and acknowledge that UTA is a public or governmental agency or entity covered under the provisions of the Utah Governmental Immunity Act as set forth in Sections 63-30-1 to 63-30-38, Utah Code Annotated 1953, as amended, and the limits of liability therein described. UTA does not waive any legal defense or benefit available to it under applicable law. Both parties agree to cooperate in good faith in resolving any disputes that may arise under this Agreement.
19. **GOVERNING LAW.** This Agreement and all transactions contemplated hereunder and/or evidenced hereby shall be governed by and construed under and enforced in accordance with the laws of the State of Utah without giving effect to any choice of law or conflict of law rules or provisions.
20. **WAIVER.** The waiver by either party of any of the covenants as contained in this Agreement shall not be deemed a waiver of such party's rights to enforce the same or any other covenant herein, and the rights and remedies of the parties hereunder shall be in addition to, and not in lieu of, any right or remedy as provided by law.

21. **NO PRECEDENT.** Both Parties acknowledge that this agreement is applicable only until the contract Term date as stated in section 1, above, and that a new agreement including new terms and conditions will need to be negotiated for future ski resort service. This agreement does not set a precedent for those future agreements.

In WITNESS WHEREOF, the undersigned parties have executed this Agreement the date and year above written.

SNOWBIRD SKI RESORT, LLC

By:

Signature

Date _____

Print Name: _____

Print Title

Approved As To Form:

Mike Bell

-70E33A415BA44F6

UTA Legal Counsel

UTAH TRANSIT AUTHORITY

By:

Signature

Date _____

Print Name: _____

Print Title:

By:

Signature

Date

Print Name: _____

Print Title:

EXHIBIT A
Pass Program Account Setup

Section 1: Partner Information

Administrator: _____
Address: _____
City, State, Zip: _____

Section 2: Contact Information

Contact Name: _____
Title: _____
Phone: _____
Email: _____

Section 3: Designated Transit Coordinator *(For additional Coordinator, please submit names and email addresses to efcooperations@rideuta.com)*

Contact Name: _____
Title: _____
Phone: _____
Email: _____

Section 4: Billing Information

Accounts Payable Contact: _____
Title: _____
Phone: _____
Email: _____

Method (Check One)		Email or Mailing Address
Email <input type="checkbox"/>	Mail <input type="checkbox"/>	

Payment Type (Check One)		
ACH <input type="checkbox"/>	Wire <input type="checkbox"/>	Check <input type="checkbox"/>

*ACH/WIRE Instructions are available upon request

Section 5: Programs and Pricing

X Daily with Adjustments

Description: Monthly payment required from employer to UTA, invoiced at the end of each month and based on daily usage, see section 5A for additional details.

Please indicate below the authorized user group or groups that will be participating in the program:

X Season Pass Holders

☐ Employees

X Daily with Weekly Cap

Description: Monthly payment required from employer to UTA, invoiced at the end of each month and based on daily usage not to exceed a weekly cap of \$28 per week per authorized user, see section 5B for additional details. Requires 100% participation by season pass holders and/or 100% participation by employees.

Please indicate below the authorized user group or groups that will be participating in the program:

☐ Season Pass Holders

X Employees



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: William Greene, Chief Financial Officer
PRESENTER(S): William Greene, Chief Financial Officer
Kensley Kunkel, Mgr. Business Dev. And Sales

TITLE:

Fare Contract: Ski Bus Agreement (Solitude Mountain Resort)

AGENDA ITEM TYPE:
Service or Fare Approval

RECOMMENDATION:
Authorize UTA to enter into a Ski Bus Agreement with Solitude Mountain Resort

BACKGROUND:

Utah Transit Authority ("UTA") and Solitude Mountain Resort ("Resort") have a longstanding relationship to promote the sustainability and growth of the Ski Bus Service in the Cottonwood Canyons. For the past 20 plus years, Solitude Mountain Resort and UTA have contracted together to provide transit service to employees and ski pass holders.

In the most recent ski season, 2020-21, Solitude Mountain Resort entered into a Ski Bus Agreement with UTA. UTA invoiced the Resort based on the monthly ridership counts using UTA's Electronic Fare Collection ("EFC") ridership counting system. The agreement allows the Resort's authorized users to ride transit service in Big and Little Cottonwood Canyons, as well as routes that connect to Ski Bus. The Resort paid \$4.00 per boarding which was a 20 percent discount of the public ski fare of \$5.00.

This past January, the four (4) Cottonwood Canyon Ski Resorts and UTA formed a working group led by an independent facilitator. The purpose of the group was to explore alternative contract options to meet mutual transit-oriented goals and objectives and address any participating working group member's concerns about entering into an alternative agreement. To achieve this, stakeholder interviews were conducted, and feedback was obtained from the General Managers of each individual Resort, UTA Board Members, and UTA's Executive Director.

Following the interviews and multiple group discussions, the Ski Resorts and UTA came to an agreement on

contract options for the upcoming 2021-2022 ski season.

For the 2021-2022 Ski Season, UTA and Solitude Mountain Resort will enter a ski bus agreement that is billed in two ways based on the authorized user segment: Season Pass Holder and/or Employees:

1. Season Pass Holder

UTA will invoice Solitude Mountain Resort for transit use by the resort's season pass holders based on a daily rate. In addition, for those authorized users whose cards are authorized for both ski and regular service, the Resort will be billed for each day a rider travels on regular service and does not travel on ski bus. An authorized user's ski season pass will also act as the holder's transit pass for the ski season.

- 20 percent discount off \$10 rate
- Manual billing adjustments
- Valid on services as determined by the ski resorts (ski only, ski and regular)
- Unlimited daily use
- Regular service includes ski bus, local bus, and TRAX
- No weekly cap

Billing will be based on an \$8.00 per day rate with two adjustments as follows:

Adjustment #1 Shuttle

In addition to validated shuttle trips being deducted from the invoice, an additional four percent will be deducted from the total billable days.

Note: The adjustment accounts for riders that might only be using the shuttle. This is based on EFC data from Alta/Snowbird where a rider made one trip, the tap is a resort stop, and the rider failed to tap off or inform the driver that they are traveling between resorts. UTA agrees to split this 50/50 with the resorts considering that many riders are coming up/down the canyon and one trip was not captured in the system.

Example:

Billable Days	1,000
Less 4%	<u>40</u>
Adjusted Billable	960

Adjustment #2 Up/Down

For Alta/Snowbird, twelve percent of the billable days will be billed at \$4.00 and the remaining days at \$8.00. For Brighton/Solitude, seven percent of the billable days will be billed at \$4.00 and the remaining days at \$8.00.

Note: This adjustment is based on APC data up/down totals for the 2020/2021 season.

Example:

Split	12%	88%
	113	847
Rate	<u>\$4</u>	<u>\$8</u>
Total	\$453	\$6,774
Billable Amount	\$7,227	

2. Employees

For the employees of Solitude Mountain Resort, UTA will invoice the resort based on a daily rate with a cap. Billing will be based on \$8.00 per day and resorts will pay no more than \$28 per week. An authorized user's employee ID will also act as the holder's transit pass for the ski season. Participation by 100% of the Resort employees is required to participate in this agreement.

- 20 percent discount off \$10 rate
- Maximum weekly charge is \$28
- Valid on ski bus, local bus, and TRAX
- Unlimited daily use

DISCUSSION:

Staff recommends that UTA enter into a Ski Bus Agreement with Solitude Mountain Resort for the 2021-22 Ski Season.

CONTRACT SUMMARY:

Contractor Name:	Solitude Mountain Resort
Contract Number:	21-F0213
Base Contract Effective Dates:	November 1, 2021-May 31, 2022
New/Total Amount Contract Value:	230,700

ALTERNATIVES:

Do not enter an agreement with Solitude Mountain Resort and renegotiate the contract terms

FISCAL IMPACT:

For the 2021-22 Ski Season, revenue for Solitude Mountain Resort is estimated to be \$230,700. This estimate was calculated using ridership values from the 2020-21 Ski Season. The revenue may vary based on actual ridership for the upcoming 2021-22 season, however a decrease in revenue compared to 2020-21 is not anticipated.

ATTACHMENTS:

Contract

SKI BUS PASS AGREEMENT

Solitude Mountain Resort

2021-2022

THIS PASS AGREEMENT ("Agreement") is made this 1st day of November 2021, between the **UTAH TRANSIT AUTHORITY**, a public transit district organized under the laws of the State of Utah ("Authority" or "UTA") and **SOLITUDE MOUNTAIN SKI AREA LLC**, a Utah limited liability company ("Administrator").

WHEREAS, The Authority is a public transit district organized under the provisions of the Utah Public Transit District Act that provides public transportation service along the Wasatch Front, including in Big and Little Cottonwood Canyon, and is authorized by State law to enter contracts; and

WHEREAS, Administrator operates a ski resort in Big or Little Cottonwood Canyon, sells season passes to the public, and hires employees to assist in the operation of its ski resort; and

WHEREAS, Administrator desires to participate in UTA's Pass program pursuant to the terms and conditions described below.

NOW THEREFORE, Administrator and UTA hereby covenant and agree to be bound by the terms and conditions set forth in this Agreement:

DEFINITIONS

- A. The term "**Authorized User**" means Administrator's and its parent company's (Alterra Mountain Company) employees, Ikon pass holders and season pass holders who have been issued a Pass in compliance with this Agreement.
- B. The term "**Local Service**" means regular fixed route bus, bus rapid transit, Microtransit, Streetcar light rail, and TRAX light rail routes operated by UTA that offer standard public transit service making frequent stops along designated streets, highways, and/or TRAX/Streetcar stations.
- C. The term "**Pass**" means a card issued by Administrator to an Authorized User under the terms of this Agreement for use on UTA's transit system.
- D. The term "**Shuttle Service**" means travel between these ski resorts: Big Cottonwood shuttle means travel between Brighton and Solitude. Little Cottonwood shuttle means travel between Alta and Snowbird.
- E. The term "**Ski Bus Service**" means public transit service other than Shuttle Service in Big and Little Cottonwood Canyons on routes and schedules determined by the Authority but including stops at Brighton and Solitude resorts.

TERMS AND CONDITIONS

1. **TERM.** This Pass Agreement shall begin on the date stated above and end May 31, 2022.
2. **PASSES.** Administrator shall issue a Pass for use on UTA's transportation services in the form of a unique electronic micro-chip embedded in an electronic fare card media that complies with UTA's requirements to Authorized Users only. Passes are non- transferrable. Administrator agrees to provide UTA educational information to each Authorized User regarding UTA's Electronic Fare Collection ("EFC") Pass Program Guidelines and Rules, particularly the requirement that Authorized Users tap on prior to boarding and tap off upon alighting.
3. **PASS RECOGNIZED AS TRANSIT FARE.** For the term of this Agreement, a Pass issued to an Authorized User under this Agreement, when displayed together with valid photo identification upon request, shall be recognized as full fare when the Authorized User has tapped.
4. **PAYMENT FOR PASSES.** Administrator is responsible for paying the full amount owed to UTA pursuant to the pricing set forth below, regardless of whether Administrator receives payment for Passes from a third party. Administrator shall pay the amount invoiced by UTA within thirty (30) days' receipt of invoice, provided that Administrator may, and without any interruption to the services provided herein, withhold payment of amounts disputed in good faith pending resolution of the dispute. UTA shall charge Administrator a one percent (1%) per month late fee on balances due under this Agreement that remain unpaid forty-five (45) days from the payment due date. Payment can be made in the following forms: Check, ACH, and/or Wire Transfer. Checks should be made payable to UTA and mailed to the following address: Utah Transit Authority, Accounts receivable, 669 West 200 South, Salt Lake City, Utah 84101. ACH/WIRE instructions are available upon request. UTA's invoices must bear the PO# provided by Administrator, if any.
 - A. **Daily with Adjustments.** UTA shall issue Administrator an invoice for actual Pass usage each month within seven days after the month ends. Administrator agrees to pay \$8.00 for each day the Authorized User travels on both Ski Bus Service and Local Service that day. Administrator agrees to pay \$5 for each day the Authorized User travels on Local Service and does not travel on Ski Bus Service. The billable ski days on the invoice will be reduced by 4% to account for missing shuttle trips. Administrator agrees to pay a reduced rate of \$4.00 for an agreed to number of billable ski days. Administrator may elect to add FrontRunner service to an Authorized User's Pass by submitting a bulk import file of ski pass numbers. For Passes with FrontRunner service Administrator agrees to pay the public fare rate of those trips in addition to the daily Ski Bus Service or Local Service fare rates. No transfer credits will be applied to the FrontRunner fare.
 - B. **Daily with Weekly Cap.** UTA shall issue Administrator an invoice for actual Pass usage as described in 4A above, not to exceed \$28 per week per Authorized User, each month within seven days after the month ends. The weekly cap excludes

FrontRunner fares.

- C. Shuttle Service. Shuttle Service will be provided to Pass holders at no additional cost and are excluded from an Administrator's monthly billing when a rider taps on and off when travelling between resorts.

- 5. **CONFISCATION AND UNAUTHORIZED USE OF PASS.** UTA shall have the right to confiscate a Pass at any time (without notice to the Administrator) from any person who UTA reasonably believes is not an Authorized User or if UTA reasonably believes the Pass has been duplicated, altered, or used in an unauthorized way. UTA will immediately deactivate confiscated Passes and notify the Administrator. If the Pass is an Administrator-provided card, UTA will return it to Administrator.

- 6. **RECONCILIATION.** UTA maintains the right, upon reasonable notice, to inspect during regular business hours and to the extent necessary to verify compliance with this Agreement, all Passes always maintained by Administrator during the term of this Agreement and for a period of one year after the expiration or termination of this Agreement. Administrator shall cooperate with and permit UTA to examine the unissued Passes distributed to Administrator and the Passes sold and to inspect and reconcile all records and accounts pertaining to this agreement.

- 7. **REPORTING.**
 - A. Partner Website. The Authority agrees to provide the following information to Administrator through www.tap2rideuta.com, which may be accessed at any time: (1) Ridership- parameters include a date range with trip counts by Pass number or service type; (2) Active Passes- a count of total active passes; (3) Pass Summary- the current status of each Pass, the Pass number, and property field to the extent completed by Administrator; and (4) Action History- a summary of all changes made to Passes. Administrator may access this information at www.tap2rideuta.com by selecting "reports."

 - B. Ridership Data. Each monthly billing cycle, UTA agrees to provide Administrator with a report of its' Authorized Users' daily usage on Ski Bus Service during the preceding month.

 - C. Additional Ridership Data. Subject to Utah Code 17B-2a-815(3)(a), which limits the type of ridership data UTA may disclose to third party administrators, the Authority will provide additional Authorized User ridership data to Administrator upon request. Requests for additional ridership data must be emailed to passprograms@rideuta.com.

 - D. Administrator Data. Administrator agrees to identify the type of each Pass issued in the property fields on the UTA Third Party Partner Website or the bulk import spreadsheet (employee or season pass-holder). UTA encourages Administrator to provide additional information in the property fields of the UTA Partner Website or

bulk import spreadsheet so that the parties can obtain more comprehensive ridership data in connection with the Ski Bus Service.

- E. Ikon Pass Data. Administrator agrees to provide a list of Ikon pass numbers to the Authority no later than November 1, 2021. The Authority agrees to activate all Ikon passes to be valid as transit fare for the term of this Agreement.
- F. Monthly Reporting. The Authority will provide Administrator with a monthly report summarizing key information agreed upon by the resorts and UTA in advance. UTA can also provide Administrator with a breakdown of EFC Pass holder usage only if Administrator provides Pass holder information through bulk import.
- 8. **TERMINATION OF AGREEMENT.** This Agreement may be terminated with or without cause by either party by providing thirty (30) days advance written notice of termination. In the event the Agreement is terminated after UTA begins Service, the amount owed under this Agreement shall be prorated based on the number of days UTA provided the transportation services specified above.
- 9. **THIRD PARTY INTERESTS.** No person not a party to this Agreement shall have any rights or entitlements of any nature under it.
- 10. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the parties hereto for the term stated and cannot be modified except by written agreement signed by both parties. Neither party shall be bound by any oral agreement or special arrangements contrary to or in addition to the terms and condition as stated herein.
- 11. **COSTS AND ATTORNEY'S FEES.** If either party pursues legal action to enforce any covenant of this Agreement, the parties agree that all costs and expenses of the prevailing party incident to such legal action, including reasonable attorneys' fees and court costs shall be paid by the non-prevailing party.
- 12. **NOTICES.** Except as otherwise indicated, notices to be given hereunder shall be sufficient if given in writing in person or by personal delivery, U.S. mail, or electronic mail. Notices shall be deemed effective and complete at the time of receipt, provided that the refusal to accept delivery shall be construed as receipt for purposes of this Agreement.

If to:		
Administrator:	_____	Utah Transit Authority:
Name:	_____	Kensey Kunkel
Address:	_____	669 West 200 South
	_____	Salt Lake City, Utah 84101
Phone:	_____	801-741-8806
Email:	a.broadaway@solitudemountain.com and to legal@alterramtnco.com	kkunkel@rideuta.com

Either party may change the address at which such party desires to receive written notice by

giving written notice of such change to the other party. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed, provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

13. **INTENT TO BE LEGALLY BOUND.** The undersigned parties have duly caused this Agreement to be executed and any individual signatories executing on behalf of a governmental entity, corporation or limited liability company are duly authorized by his or her respective governmental entity, corporation, or limited liability company employer to execute this Agreement.
14. **NON-DISCRIMINATION.** Administrator agrees that it shall not exclude any individual from participation in or deny any individual the benefits of this Agreement, based on race, color, national origin, creed, sex, or age in accordance with the requirements of 49 U.S.C. 5332.
15. **DEFAULT.** In the event that either party fails to perform any of the terms and conditions required to be performed pursuant to this Agreement, and upon fifteen (15) days' notice of such failure to perform, the non-defaulting party under this agreement may terminate this Agreement. In the event that Administrator fails to pay UTA, Administrator shall be liable for not only amounts due under this Agreement, but also collection costs including court costs and reasonable attorney's fees.
16. **SUCCESSORS AND ASSIGNS.** This agreement shall not be assigned without the written consent of the other party. This agreement with all its terms and provision shall be binding and inure to the benefit of any permitted successors and assigns of the parties hereto.
17. **AMENDMENTS.** This Agreement may not be modified or terminated orally, and no claimed modification, rescission or waiver shall be binding upon either party unless in writing signed by a duly authorized representative of each party.
18. **UTA RESPOPNIBILITY/ INDEMNIFICATION.** UTA is solely responsible for the performance of the transportation services described herein, including (a) ensuring that all drivers are duly certified and insured and (b) resolving all claims and damages that may arise out of vehicle collisions or other losses relating to such transportation services.

Notwithstanding the foregoing, each of the parties mutually agrees to indemnify, defend, and hold harmless the other party, its directors, officers, agents, and employees against all claims, actions, debts or loss to the extent arising from a breach of a covenant, or other breach or default by, the indemnifying party under this Agreement. Such indemnification shall, as to UTA, include personal injury and property damage claims arising out of its performance of transportation services. The parties recognize and acknowledge that UTA is a public or governmental agency or entity covered under the provisions of the Utah Governmental Immunity Act as set forth in Sections 63-30-1 to 63-30-38, Utah Code Annotated 1953, as amended, and the limits of liability therein described. UTA does not waive any legal defense or benefit available to it under applicable law. Both parties agree to cooperate in good faith in

resolving any disputes that may arise under this Agreement.

For the avoidance of doubt, UTA is solely responsible for the performance of the transportation services described herein, including (a) ensuring that all drivers are duly certified and insured and (b) resolving all claims and damages that may arise out of vehicle collisions or other losses relating to such transportation services.

19. **GOVERNING LAW.** This Agreement and all transactions contemplated hereunder and/or evidenced hereby shall be governed by and construed under and enforced in accordance with the laws of the State of Utah without giving effect to any choice of law or conflict of law rules or provisions.
20. **WAIVER.** The waiver by either party of any of the covenants as contained in this Agreement shall not be deemed a waiver of such party's rights to enforce the same or any other covenant herein, and the rights and remedies of the parties hereunder shall be in addition to, and not in lieu of, any right or remedy as provided by law.
21. **NO PRECEDENT.** Both Parties acknowledge that this agreement is applicable only until the contract Term date as stated in section 1, above, and that a new agreement including new terms and conditions will need to be negotiated for future ski resort service. This agreement does not set a precedent for those future agreements.

Remainder of Page Left Intentionally Blank

In WITNESS WHEREOF, the undersigned parties have executed this Agreement the date and year above written.

SOLITUDE MOUNTAIN SKI AREA LLC

By:

Signature

Date _____

Print Name: _____

Print Title

Approved As To Form:

Approved A
DocuSigned by:

Mike Bell

~~70F33A415BA44F6~~

UTA Legal Council

UTAH TRANSIT AUTHORITY

By:

Signature

Date

Print Name: _____

Print Title:

By:

Signature

Date _____

Print Name: _____

Print Title:

EXHIBIT A
Pass Program Account Setup

Section 1: Partner Information

Administrator: _____
Address: _____
City, State, Zip: _____

Section 2: Contact Information

Contact Name: _____
Title: _____
Phone: _____
Email: _____

Section 3: Designated Transit Coordinator *(For additional Coordinator, please submit names and email addresses to efcooperations@rideuta.com)*

Contact Name: _____
Title: _____
Phone: _____
Email: _____

Section 4: Billing Information

Accounts Payable Contact: _____
Title: _____
Phone: _____
Email: _____

Method (Check One)		Email or Mailing Address
Email <input type="checkbox"/>	Mail <input type="checkbox"/>	

Payment Type (Check One)		
ACH <input type="checkbox"/>	Wire <input type="checkbox"/>	Check <input type="checkbox"/>

*ACH/WIRE Instructions are available upon request

Section 5: Programs and Pricing

☒ **Daily with Adjustments**

Description: Monthly payment required from employer to UTA, invoiced at the end of each month and based on daily usage, see section 5A for additional details.

Please indicate below the authorized user group or groups that will be participating in the program:

☒ **Season Pass Holders**

☐ **Employees**

☒ **Daily with Weekly Cap**

Description: Monthly payment required from employer to UTA, invoiced at the end of each month and based on daily usage not to exceed a weekly cap of \$28 per week per authorized user, see section 5B for additional details. Requires 100% participation by season pass holders and/or 100% participation by employees.

Please indicate below the authorized user group or groups that will be participating in the program:

☐ **Season Pass Holders**

☒ **Employees**



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 9/8/2021

TO: Board of Trustees
THROUGH: Mary DeLoretto, Interim Executive Director
FROM: William Greene, Chief Financial Officer
PRESENTER(S): Dave Pitcher, Claims and Insurance Manager

TITLE:

2021-2022 UTA Insurance Coverage Update and Proposed Renewal

AGENDA ITEM TYPE:

Discussion

RECOMMENDATION:

Informational item for discussion

BACKGROUND:

This insurance renewal proposal is presented as required by Board Policy 2.1.II.F. - Risk Management, which requires:

The Authority will maintain Public Officials Errors and Omissions Insurance in an amount determined to adequately protect the Authority.

The Executive Director will, as necessary, procure other insurance to compensate for losses that would adversely affect the Authority.

DISCUSSION:

The insurance market has experienced significant increases in most markets since UTA's renewal in 2020. For example, our property insurance has increased by 40%, Cyber Liability by 90% and Public Officials/Employment Practices Liability by 85%. Other increases were much less than expected such as the Railroad Liability only increased by 7.5% where most commuter rail operations are seeing increases in 25-30% range.

UTA is moving to self-insurance on the rideshare program which will result in an estimated savings of more

than \$4.2M over the next five years.

ALTERNATIVES:

N/A

FISCAL IMPACT:

The proposed annual insurance renewal results in an overall 11.6% decrease in premium this year.

ATTACHMENTS:

None